

**CHIEFS, LAWYERS AND DEBT: A STUDY OF THE RELATIONSHIP
BETWEEN HIGHLAND ELITE AND LEGAL PROFESSION IN SCOTLAND
C1550 TO 1700.**

by

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To Julie, Jamie, Robbie and Katie.

I declare this is entirely my own work and no part of it has been previously published in the form now presented.

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ABBREVIATIONS AND CONVENTIONS

All sums of money are given in £s Scots unless otherwise stated. The year is deemed to have begun on 1 January. Abbreviations conform to the List of abbreviated titles of the printed sources of Scottish History to 1560, published as a supplement to the Scottish Historical Review, October 1963, with the following additions:

<i>Book of Dunvegan</i>	<i>The Book of Dunvegan</i> , 2 vols., R.C. MacLeod ed., (Third Spalding Club, Aberdeen, 1938-9).
Bread. Muns.	SRO Breadalbane Muniments, GD 112.
<i>Clan Campbell</i> , vi	<i>The Clan Campbell: Abstracts of Entries relating to Campbells in the Books of Council and Session, Register of Deeds 1554-1660</i> , vol vi, H. Paton ed. ed., (Edinburgh, 1918).
<i>Clan Campbell</i> , viii	<i>The Clan Campbell: Abstracts of Entries relating to Campbells in the Books of Council and Session, Acts and Decrees 1550-1660</i> , vol. viii, H. Paton ed., (Edinburgh, 1922).
Donaldson, <i>Legal Profession</i>	Donaldson, G., 'The Legal Profession in Scottish Society in the 16th and 17th centuries', <i>JR</i> , (1976).
Dunlop, <i>Chief and Lawyer</i>	Dunlop, J., 'A Chief and his Lawyer', <i>TGSI</i> , xlv, (1967-8).
<i>Faculty of Advocates</i>	<i>The Faculty of Advocates in Scotland 1532-1943</i> , Sir F.J. Grant ed., (SRS, Edinburgh, 1944).
Gordon, <i>Earldom of Sutherland</i>	Gordon, Sir R., <i>A Genealogical History of the Earldom of Sutherland</i> , (Edinburgh, 1813).
<i>Lords of the Isles</i>	<i>Acts of the Lords of the Isles</i> , J. Munro and R.W. Munro eds., (SHS, Edinburgh, 1986).
MacGregor, <i>Political History</i>	MacGregor, M.D.W., 'A Political History of the MacGregors before 1571', (Edinburgh University PhD, 1989).
MacInnes, <i>Clanship</i>	MacInnes, A.I., <i>Clanship, Commerce and the</i>

	<i>House of Stuart, 1603-1788</i> , (1996).
MacKenzie, Orain Iain Luim	<i>Orain Iain Luim: Songs of John MacDonald, Bard of Keppoch</i> , A.M. MacKenzie ed., (SGTS, Edinburgh, 1964).
Munro, <i>Clansmen and Clients</i>	Munro, J., 'Clansmen and Clients', <i>The Scottish Genealogist</i> , xii, (1965).
NLS	National Library of Scotland
<i>The Mackintosh Muniments</i>	<i>The Mackintosh Muniments, 1442-1820</i> , H. Paton ed., (Edinburgh, 1903).
O Baoill, <i>Eachann Bacach</i>	<i>Eachann Bacach and other MacLean Poets</i> , Colm O'Baoill ed., (SGTS, Edinburgh, 1979).
<i>Old Ross-shire</i>	<i>Old Ross-shire and Scotland</i> , 2 vols., W. MacGill ed., (Inverness, 1909).
<i>Records of Inverness</i>	<i>Records of Inverness</i> , 2 vols., W. MacKay and H. Cameron eds., (New Spalding Club, Aberdeen, 1911 and 1924).
<i>Register of Writers</i>	<i>Register of the Society of Writers to her Majesty's Signet</i> , R.K. Will ed., (Edinburgh, 1983).
SGTS	Scottish Gaelic Texts Society.
SRO	Scottish Record Office.
SRS	Scottish Record Society.

ABSTRACT

The relationship between Highland chiefs and the Edinburgh legal profession had its origin in the period following the establishment of the College of Justice in 1532. Relations existed between Edinburgh lawyers and many chiefs in the later 16th century but the relationship became closer in the early 17th century and a group of lawyers emerged who specialised in Highland clients. A significant change took place in the later 17th century as a large number of Highlanders became lawyers in Edinburgh themselves. The rise of these "clan lawyers" meant that the client-lawyer relationship was more likely to be governed by kinship in the later 17th century than it had been in the 16th century.

Around 1550 a significant change took place in the nature of the lawyers that chiefs employed in the locality. Incoming Scots speaking lawyers from outside the kindred took over the top positions as notaries public and legal servitors. By the later 17th century members of Highland kindreds became lawyers in the burghs bordering the Highlands. Another group of lawyers operated within the Highlands, outwith the households of the chiefs, in the later 17th century.

Legal costs were an increasing financial burden on the chiefs as legal fees escalated in the early 17th century. The chiefs borrowed extensive sums of money from the legal profession and the management of debt became a central part of the legal work carried out for the chiefs. By the later 17th century chronic indebtedness was a major cause of social change in the Highlands.

INTRODUCTION

In his "Genealogical History of the Earldom of Sutherland" which was written in the 17th century, Sir Robert Gordon provides the following account of the expansion of the MacKenzie kindred:

The yair of God 1602, the tryb of Clancheinzie fell at variance with the Laird of Glengary (one of the Clandonald) who being unexpert and unskillfull in the lawes of the realme, the Clancheinzie easlie intrapped him within the compas thereof....Thus doe the tryb of ClanKeinzie become great in these parts, still inroaching upon ther nighbours, who are unacquented with the lawes of this kingdome.¹

From Sir Robert Gordon's contemporary perspective, knowledge of the law and manipulation of the legal mechanisms was of crucial importance in giving the MacKenzie kindred advantage over MacDonald of Glengarry. It might be suggested that part of the explanation of the explosive growth of the MacKenzie kindred in the later 16th and early 17th centuries was that knowledge of the law was not evenly dispersed between Highland kindreds. MacKenzie chiefs understood that the rising power of central government marked a profound change in the relationship between the Highland elite and Crown. They cemented relationships with the central government to extend the power of their kindred. The skills of the Scottish legal profession were required to take cases through the Court of Session or Court of Justiciary, or to represent the chiefs before the Privy Council. This relationship between chiefs, lawyers and the law was therefore of importance in determining the history of the Highlands in the 16th and 17th centuries.

This is a study of the relationship between the Highland chiefs of early modern Scotland and the legal profession. For the Highland chiefs the period from c1550

to 1700 was one of political, economic, social and cultural change.² This study aims to place the relationship between chiefs and lawyers, which is in essence a study of the relationship between a provincial elite and the early modern state, in the context of this change. This approach will deepen our knowledge of how Highland chiefs responded to a more pervasive central power and of the legal profession of early modern Scotland. The meteoric rise of the Scottish legal profession at this time has been commented upon but has so far received little detailed attention from historians.³

The historical period focused on is c1550 to 1700 although at times the situation before c1550 will be discussed to place the subject in historical context. The middle of the 16th century is a fitting place to begin our study of the Highland chiefs and their relationship with the legal profession. The death of Donald Dubh in 1545 ended attempts to resurrect the Lordship of the Isles⁴ and resulted in an reorientation of relations between the kindreds of the Highlands and Islands and the central government. The 16th century also witnessed the development of the institutions of central government, in particular the establishment of the College of Justice in 1532, the growth of the legal profession and the increasing power of the central government under the personal rule of James VI. The study ends in the later 17th century: the period that witnessed the rise of Highland Jacobitism after the 1688-9 Revolution. Jacobitism fundamentally affected the history of the Highland chiefs from the late 17th century through to the middle of the 18th century and produced a voluminous historiography which has not been used in this thesis. This is therefore a study of the Highland chiefs and their relationship with the legal profession in the period between the final eclipse of the Lordship of the Isles and the Jacobite Rebellions.

Chapter 1 provides a profile of the Highland chiefs in our period, defining who they were and examining briefly the nature of Highland society and chiefship. The chapter

focuses on the changing cultural life of the Highland elite and the developing relationship between the chiefs and King, Court and Parliament since these two themes are considered to be of major importance in explanations of the developing chief/lawyer relationship. Chapter 2 analyses the relationship between Highland chiefs and the Edinburgh legal profession of advocates, Writers to the Signet and writers. Chapter 3 looks at the relationship between chiefs and local lawyers who were employed by the chiefs in the Highlands as notaries public and legal servitors. The rest of the thesis develops themes from chapters 2 and 3. Chapter 4 examines the relationship between the chiefs of the Campbells of Glenorchy and their lawyers based in Edinburgh, Chapter 5 investigates the career of John MacKenzie, an Edinburgh advocate who worked for a large number of Highland kindreds in the later 17th century and Chapter 6 explores the relationship between Sir Duncan Campbell of Glenorchy and his legal servitor Gavin Hamilton, notary public, in the later 16th and early 17th century. Chapter 7 examines the financial side of the relationship between chiefs and lawyers by looking at the legal fees that chiefs were charged by their lawyers and moneylending by lawyers to Highland chiefs. Chapter 8 explores the escalation of indebtedness amongst the Highland elite, which emerged as a major theme from the source materials used, and the effects of this financial crisis on the Highland chiefs.

SOURCES

The primary historical sources that have been used in this study can be divided into two main categories. Firstly those produced by Highland kindreds: of principal importance are the Breadalbane Muniments(SRO GD 112), the family records of the

Campbells of Glenorchy; a vast body of manuscript material easily accessible in the Scottish Record Office. Other Highland Family Papers that were examined in the Scottish Record Office included the Campbell of Duntroon Muniments(GD 116), the Clanranald Papers(GD 201), the Cromarty Muniments(GD 305), the MacDonald of Sanda Papers(GD 92), the MacLaine of Lochbuie Papers(GD 174), the MacPherson of Cluny Papers(GD 80), the Reay Papers(GD 84) and the Robertson of Lude Muniments(GD 132). There are of course a large number of printed primary sources relating to other Highland kindreds.

The principal gap in the primary sources for the study of the Highland chiefs of the 16th and 17th centuries is the absence of documentation produced by the MacKenzies of Kintail in the period before 1700. The Seaforth Muniments contain very little material relating to the 17th century and before. It seems that the documents and letters of this earlier period were destroyed sometime in the 17th century. However, information about the chiefs of Kintail and the lawyers who worked for them can be obtained from the family records of neighbouring kindreds and there survives a large corpus of material belonging to the major cadet branch, the MacKenzies of Tarbat. The study of the MacKenzies has been enhanced in the later 17th century by the use of a major manuscript source in the National Library of Scotland; the Delvine Papers. These are the papers of the MacKenzies of Delvine; a family of lawyers of Highland origins who worked in Edinburgh in the later 17th and 18th century. This source has allowed a detailed analysis of the remarkable career of John MacKenzie of Delvine, an advocate who worked as a clerk of the Court of Session and acted as legal adviser to a large number of chiefs in the later 17th century.

The other major category of sources used are those that were produced by the central government. Some of these are available in printed form such as the *Acts of the Parliaments of Scotland*, *Registrum Magni Sigillii Regum Scotorum* and the *Register of the Privy Council of Scotland*. Others are in Manuscript in the Scottish Record Office: the Register of Sasines, the Commissariat Records and the Records of the Court of Session, in particular the Register of Deeds and to a lesser extent the Acts and Decrees which remains a great untapped reservoir for Highland History during this period. Cases before the Court of Session involving Campbells and entries relating to Campbells in the Register of Deeds have been listed by Paton.⁵

The above sources are all in Scots/English or Latin. The Highland chiefs of the period c1550-1700 were mostly Gaelic speakers⁶ but most of their surviving statements in the historical sources are not in Gaelic. Many of the lawyers who are mentioned in this study were also Gaelic speakers but their communication comes down to us in Scots or English. This must obviously be born in mind. The Gaelic sources used in this study are limited to the printed works of the poets of the 16th and 17th centuries and a few legal documents: the sparse survivals from the oral Gaelic legal tradition. However it should be stressed that the works of the Gaelic poets are a vitally important source for the study of Highland chiefs during this period.

¹ Gordon, *Earldom of Sutherland*, 248.

² This is discussed in more detail in Chapter 1, 16-64.

³ The only analytical study of the legal profession in early modern Scotland is G.Donaldson, "The Legal Profession in Scottish Society in the 16th and 17th centuries", *Juridical Review*, (1976), 1-17.

⁴ K. A. Steer and J.W.M. Bannerman, *Late Medieval Monumental Sculpture in the West Highlands*, (1977), 213.

⁵ Henry Paton, *The Clan Campbell, Abstracts of Entries relating to Campbells in the Books of Council and session, Acts and Decrees, 1500-1660*, viii, (Edinburgh, 1922) and *The Clan Campbell, Abstracts of Entries relating to Campbells in the Books of Council and Session, Register of Deeds, 1554-1660*, vi, (Edinburgh, 1918).

⁶ *Infra*, 35-6.

CHAPTER 1: THE HIGHLAND CHIEFS C1550 TO 1700

WHO WERE THE HIGHLAND CHIEFS?

Defining the Highlands of Scotland is notoriously difficult and the same problems exist when coming to a definition of the Highland chiefs. In 1587 the Scottish Parliament drew up two detailed lists of the landowners and heads of kindreds in the Highlands as part of an attempt to extend law and order to the area. These two lists are a good starting point for coming to a definition of the Highland chiefs in our period. The first list is titled "The Roll of the names of the landislordis and baillies of landis duelland on the bordouris and in the hielandis quhair brokin men hes duelt and pntlie duellis"¹ and the second list "The Roll of the clannis that hes capitanes cheiffis and chiftanes quhome on thai depend oftymes aganis the willis of thair landislordis alsweill on the bordorl as hielandes and of sum speale personis of branches of the saidis clannis".² For the purposes of this study we are ignoring the names of the landlords and kindred heads in the Borders. These two lists would seem to encapsulate the major players in Highland affairs from the Scottish government's point of view since they remained a standard roll used by the government when formulating Highland policy down to the Restoration. On 1 October 1661 the Privy Council made a proclamation "charging chiefs of clans and branches of clans and landlords annexed to the act of the eleventh Parliament of King James the Sixth and others given in the roll to compear before them".³ Both lists are reproduced as Appendices I and II.⁴ The "Roll of the names of the landislordis" contains 104 names and the "Roll of the clannis" 34 names. A glance at the first list, however, reveals the names of individuals who one might not easily recognise as Highland chiefs: for example, the Duke of Lennox, the Laird of Merchiston, the Earl of Glencairn, the Earl of Errol. Such individuals might own lands in the Highlands or on the verge of the Highlands but we would not consider them in a

cultural sense to be Highland chiefs. The cultural element is therefore very important in coming to a definition of who the Highland chiefs were. The lists do convey, however, the large number of landowners who had an interest in lands in or near the Highlands and so from the government's point of view would be involved in the security of the area. It is necessary to define more closely what we mean by an Highland chief. For the purposes of this study the Highland chiefs are defined as those individuals who held the majority of their lands in the Gaidhealtachd or who were the head of a significant kindred in the Gaidhealtachd, the Gaelic speaking area of Scotland. Withers has produced a definition of the geographical extent of the Gaidhealtachd in 1698 from the distribution lists of Irish bibles which enabled him to discern the predominantly Gaelic speaking parishes⁵ and this has been used as an approximation of the Gaelic speaking areas of Scotland in the period from c1550 to 1700, assuming that the Gaelic language did not decline to any significant extent during these years. In the course of this study the term Highland applies to the Gaidhealtachd and includes the Inner and Outer Hebrides, ie Highland will be used in a cultural sense and not simply a geographical one.

Those who held land on the border zone between the Gaelic speaking and Scots speaking areas of the country and who seem to inhabit both worlds but whose political centre of gravity and/or majority of lands were not in the Highlands or who were not leaders of a kindred in the Highlands are not considered to be Highland chiefs. Their position on the zone between the two major cultures of Scotland meant that they were intimately involved with life in the Highlands: they may have held some of their lands in the Highlands and were involved in the social, cultural and economic life of the Highland chiefs. Individuals placed in this second group include the Earl of Huntly, who held considerable amounts of land in or near the Highlands but whose centre of power was outside the Gaidhealtachd and who culturally would be considered a

Lowland noble. Other examples are the Earl of Caithness, the Earl of Menteith, Lord Drummond and smaller lairds like Moncreiff of that Ilk. This gives us a smaller and more manageable list of Highland chiefs and this thesis is principally concerned with this group of men and their relationship with the legal profession. The list of Highland chiefs are given in Appendix III.⁶

A number of Highland kindreds disappear from our list in the course of the period from c1550 to 1700: the MacLeods of Lewis after bitter arguments over the chiefship in the late 16th and early 17th centuries; the MacDonalds of Islay after the Rebellion of 1615-16 and the MacIains of Ardnamurchan in 1625. The MacGregors were fragmented and without a chief for periods of the 17th century but managed to maintain some form of kindred cohesion to reform in the later 17th century.

The lists produced by the Scottish Parliament also highlight the problem of nomenclature when dealing with the Highland chiefs. The sources refer to captains, chiefs and chieftains as the title applied to the individual who is head of a particular kindred. In the Gaelic sources there is not the same degree of confusion with the term *cinn cinnidh* used to describe the leader of a kindred.⁷ There are also problems concerning other terms of definition. Can we speak of an Highland aristocracy or Highland nobility? Many of the leaders of kindreds in the Highlands were major Scottish landowners and indeed a number were members of the Scottish peerage. The Gaelic sources on the other hand, in their references to the *daoin uaisle*, tend to suggest that in terms of the kin-based society there was a wider definition of nobility within Highland society.⁸ From the point of view of the Gaelic sources the Highland nobility would include the clan gentry. However, for the purposes of this study, two terms will be used to describe the top level in Highland society: Highland chiefs and Highland elite. In this study these terms will be used to mean the same thing and other

terms will be avoided. All the individuals in Appendix III are considered to be Highland chiefs and to represent the Highland elite.

HIGHLAND SOCIETY C1550 TO 1700

Much has been written about the nature of Highland society in the early modern period and in particular what constitutes a Scottish "clan" and how this institution developed.⁹ Few detailed discussions of kindreds have been undertaken until recently excluding the traditional clan histories which are generally expanded genealogies rather than analytical historical investigations.¹⁰ The study of Highland society in the early modern period has often focused on the influences of clanship and feudalism on that society. This debate is long running and has been dealt with by others.¹¹ Stevenson has concluded that "what really mattered in the Highlands in the 16th century in the absence of any effective central government was power. Whether the exercise of this power was justified by feudal or kinship arguments was secondary".¹² In the most recent study which has synthesized most of the other accounts MacInnes concludes:

clans can be defined as territorial associations, composed of a dominant kin-nexus and satellite family groups, that were held together by the paternalism and patronage of their chiefs and leading gentry who maintained an ethos of protection within the localities settled by their clansmen.¹³

Stewart has provided an analysis of the social structure within the Clanranald. At the apex of the kindred was the *ceann cinnidh* "head of the kindred" or chief; secondly the *daoin-naisle* or nobles of the kindred; thirdly *aed dana* "folk of gifts" who were also members of the *daoin-naisle* and fourthly the commoners of the kindred.¹⁴ In the

early modern period another important grouping developed within Highland society: the servitors of the chiefs who were often incoming bilingualists or Scots speakers from outside the Highlands or from the border zone between Highlands and Lowlands.¹⁵

By the later 17th century Highland society had become more complex. Some of the clan nobles had gained a stronger hold on the land through the issue of a feu charter or had been granted a wadset as their chiefs sought to raise cash to offset their increasing indebtedness. MacInnes has stated that "the acquisition of a proprietary interest by wadset and sale led to a major expansion in the class of uachadarain, or landowners, within Scottish Gaeldom".¹⁶ By the later 17th century Highlanders were pursuing careers in the Army. They had previously fought as mercenaries in the Irish Wars of the 16th century and in the Thirty Years' War but by the late 17th century took up positions in the British Army.¹⁷ Younger sons of chiefs pursued careers in the legal profession in Edinburgh¹⁸ or as merchants.¹⁹ The hereditary professional families had undergone a period of sharp decline.²⁰ Highland society was experiencing a period of rapid transformation between c1550 and 1700.

HIGHLAND CHIEFSHIP

Having given a brief survey of the nature of Highland society it is now necessary to focus on the Highland chiefs, who are the subject of this thesis, and examine briefly how they exercised their power within Highland society. Power was maintained in a number of ways: through the control of economic resources, through the legal institutions which followed from this and from the social obligations between chief and kindred which included the patronage of hereditary professional families.

The economic power of the chiefs rested on their control of the resources of their lands. From the later 16th century the surpluses of the chiefs' estates were being sold in Lowland markets and the development of the cattle trade throughout the 17th century was a growing source of income. Control of economic resources enabled the chiefs to control military power. The military strength of the 5th Earl of Argyll has been surveyed by Dawson who argues that it made him the "most important source of military might within the British Isles outwith the governments of Scotland and England".²¹ She has estimated that he was able to raise at least 5000 fighting men and his strength was further increased by the use of galleys.²² The *Description of the Isles* of 1577x1595 describes the military strength of particular chiefs; for example MacLeod of Lewis "may raise on this pairt of this Ile callit Lewis 700 men." MacLean of Duart could muster 600 men²³ and 6000 men could be raised from the whole of the Isles.²⁴

The power of the chiefs was also reflected in the fortified dwelling places that they built. The late 16th century and early 17th century witnessed extensive castle building by the chiefs. For example castles belonging to Highland chiefs that are assigned to this period by MacGibbon and Ross include Muckrach, Erchless, Dalcross, Kilcoy, Grandtully, Cawdor, Ruthven, Rossdhu, Meggernie, Aberuchill, Comrie, Finlarig, Achallader, Dundarave, Barcaldine, Invergarry, Redcastle, Castle Leod, Ardvreck, Kilmartin, Edinample, Balloch, Castle Menzies and Carnassery.²⁵ After a flood of building in the later 16th and early 17th castle building ran out of steam in the later 17th century. This was no doubt due to the financial crisis which enveloped the Highland elite as the 17th century progressed caused by financial problems associated with chronic indebtedness.²⁶

The power of the Highland chiefs was maintained through their heritable jurisdictions. An indication of the workings and power of legal jurisdictions in the Highlands can be gained from material in the Breadalbane Muniments printed in the Black Book of Taymouth. One of the Acts of a baronial court held at Killin or Finlarig in 1621 stated that "ewrie tennent and taxsman of ane merkland sall set and plant yeirly within thair saidis kailyeardis sex young tries, and everie cottar thrie tries".²⁷ A Justice Court held in 1623 by royal commission by Colin Campbell fear of Glenorchy came to the following conclusion: "the said Gillechrist McIntallour to be instantly hangit be his craig upone ane gibet or gallous quhill he be deid".²⁸ The heritable jurisdictions remained an instrument of chiefly power until they were ended in the aftermath of the 1745 Jacobite Rebellion.

Another important aspect of Highland Lordship were the social obligations which tied kinsmen to their chief and the chief to his people. MacGregor has made a detailed study of the Lordship of the Campbells of Glenorchy between 1550 and the earlier 17th century which is probably the most detailed account we have of Highland Lordship at this time.²⁹ MacGregor has listed the various services due to the chiefs of Glenorchy and has commented on "the remarkable degree of social control they exercised within their enlarged sphere of influence".³⁰

Chiefs owed obligations to their kinsfolk and to those with whom they had made bonds of manrent. In a genealogy of the MacKenzies it is stated that in the early 17th century if a father died in the service of MacKenzie of Kintail his family would be brought up in the chief's household:

"it wes the custome to reward the widdowes and children of such as died in his service, and that most libberallie, in so much that his shouldiers became almost desperat in his service, knowing yr successors would be so noblie rewarded".³¹

The patronage of hereditary professional families was another aspect of Highland Lordship. This included the employment of poets, musicians, lawmen, stone carvers and medical men.³² Bannerman has made a detailed study of the Beaton, a medical kindred whose members practiced medicine in the classic Gaelic tradition in various parts of Scotland from the early 14th century to the early 18th.³³ The 17th century witnessed the decline of patronage of the Gaelic hereditary professional families. Bannerman has stated that "as the ruling grades in society became increasingly Anglicised and increasingly orientated towards the money-based economy of Lowland Scotland and England, patronage for the schools ceased...this process probably began rather earlier and continued more rapidly in medicine than it did, for instance, in music or literature".³⁴

THE CULTURAL LIFE OF HIGHLAND CHIEFS C1550 TO 1700

This section examines in detail the cultural life of the Highland elite and how this changed during the above period. This is discussed in detail since it is considered to be a major factor in determining the relationship between Highland chiefs and the legal profession especially in explaining how large numbers of men from the Highlands, many from the Highland elite, moved into the legal profession in the course of the 17th century. A broad definition of culture has been employed including language, fosterage, education, leisure and entertainment.

FOSTERAGE

The custom of fosterage has long been considered as an integral part of Gaelic society and has received attention from various commentators although a detailed study of this institution has not been undertaken.³⁵ An examination of fosterage is necessary in any account of the cultural life of the Highland chiefs because the institution of fosterage had a major influence on the early life of the Highland elite. There are two main sources for the study of fosterage in this period; firstly contemporary fosterage contracts which were written agreements between the parents of the child and the foster parents, and secondly references to fosterage in miscellaneous sources such as genealogical histories, government records and family muniments.

Fosterage documents allow us to examine the institution in some detail. Many of the surviving documents relate to Campbell kindreds and in particular the Campbells of Glenorchy. This probably reflects the inclination of Campbell chiefs to have things written down and to carefully organise the administration of the affairs of their kindred. For other kindreds the terms of the fosterage agreement were applied from the oral Gaelic legal tradition and as a result they have often left no written record.

Many of the surviving fosterage contracts are found in the Breadalbane Muniments and so fosterage can be studied in more detail for the Campbells of Glenorchy than for any other Highland kindred. Sir Duncan Campbell, who was 7th Laird of Glenorchy between 1583 and 1631 was fostered as a child by Duncan Campbell of Duntroon and *Agnas Niklauchlane* his spouse.³⁶ The Campbells of Duntroon were one of the less powerful cadet branches of the Campbells Earls of Argyll. In 1579 Robert Campbell,

the second son of Sir Duncan Campbell of Glenorchy, was fostered with *Gillepatrick maknicoll Vcillephadrik* and his spouse until he went to school. Under the terms of the contract Sir Duncan was obliged to be a loyal chief and master to Gillepatrick and his wife, and never to remove them or their children from the land they rented. Robert Campbell was to receive a bairn's part of their moveable gear.³⁷ On 5 November 1580 Sir Duncan's third son, Duncan Campbell, was fostered with Sir Duncan's "native servant" *Gillecreist Makdonchy Duff VcNokerd* and *Katherine Neyn Douill Vekconchy* his spouse.³⁸ It was stated in the contract that if Duncan (the foster child) died, he would be replaced by another girl or boy. In 1583 John Campbell, Sir Duncan's fourth son, was fostered with Gillespick McLauchlane and Katherine MacGregor his spouse.³⁹ The contract of fosterage by which Duncan Campbell of Duntroon and his wife *Agnas Nikolleane* were to take Sir Duncan's eldest son Colin in fosterage, "that luife and favour suld be and contenew betwex the housis of Glenurquhay and Duntrone", was dated 12 August 1584.⁴⁰ As we have seen above Sir Duncan had himself been fostered by Duncan Campbell of Duntroon and a previous wife. The fosterage documents do not follow a chronological sequence in terms of the ages of the sons of Sir Duncan nor do fosterage documents survive for the other sons of Sir Duncan or for any of his daughters. The documents indicate that obligations applied to both parties and some of the statements in the contracts obviously addressed specific situations relating to Sir Duncan and the foster-parents. The status of the foster-parents was reflected in which son they received; the higher status Campbells of Duntroon fostering the future chief of Glenorchy. It is noticeable from the names of the foster-parents that all these sons of Sir Duncan were being brought up in a strongly Gaelic environment: the patronymics of the spouses indicating that they would be reared by their foster-mothers in a purely Gaelic speaking milieu. By binding the sons of the chiefs into a Gaelic cultural environment during their early

years fosterage was of great importance in preserving the Gaelic language amongst future chiefs and reinvigorating the bonds of kinship within Highland kindreds.

Sir Colin Campbell of Glenorchy, who succeeded his father as Laird of Glenorchy in 1631, did not have any children of his own but he and his wife fostered Archibald Campbell, the eldest son of Archibald Lord Lorne. No formal fosterage document was drawn up to specify the conditions of the fosterage of Archibald. Part of young Archibald's education was to learn Gaelic indicating that he had initially been reared in a non Gaelic context. However, this shows that Lord Lorne attached importance to maintaining the linguistic link between chief and kindred.⁴¹

Other fosterage documents which have survived relating to other kindreds indicate similar terms and conditions showing that the institution was based on the customary legal tradition of Gaelic Scotland.⁴² The only fosterage document in Gaelic is one by which the son of MacLeod of Dunvegan was fostered in 1614.⁴³

Other sources give further details about the custom of fosterage during the early modern period. Fosterage encouraged a special relationship between the child and the foster-parents. Sir Robert Gordon informs us about Aodh MacKay, the eldest son of Sir Donald MacKay of Strathnaver: "This chyld was bred, from his nativitie, with John Gordoun of Enbo, as his father, Sir Donald, wes lykwise in his infancie, which is the ground of the freindship and familiaritie which hath been betuixt MacKy and the house of Enbo".⁴⁴ Sir Robert also informs us that Sir John Sinclair of Greinland and Retter, who died in 1622, had been a great supporter of the Clan Gunn "with whom he had bein fostered and bred in his infancie, which is accompted the strictest poynt of amitie and freindship among all the Hielanders of the Kingdome of Scotland, preferring oftentimes their fosters and foster-brethren unto their parents and neirest kindred:

they will follow and depend upon them, befor their naturall lords and masters".⁴⁵ Sir Robert himself was born at Dunrobin in Sutherland on 14 May 1580 and fostered at Culmally-kirk-toun with Margaret MacKreth, the widow of John Gordon of Drummuy.⁴⁶

A letter from Archibald Earl of Argyll to Sir Duncan Campbell of Glenorchy, from London, gives a flavour of the emotions involved in the fosterage relationship. Archibald had been fostered with Sir Duncan's father, Colin Campbell of Glenorchy:

I desyre moir to sic your hous then utheris for my being bred a chyld with your father maks me long that his chydring and grandchyldring sould sic me nou whane I am ane old man that I mycht schou my thankfulness to thame for his cair of me in my youth.⁴⁷

Were the sons and daughters of Highland chiefs still being fostered in the later 17th century? It is noticeable that most of the fosterage documents that have survived are from the later 16th and early 17th centuries. In the case of the Campbells of Glenorchy documents were drawn up for the children of Sir Duncan Campbell of Glenorchy in the later 16th century but not for his grandchildren when they were young in the early 17th century. This evidence suggests a decline in the custom amongst the Campbells of Glenorchy.

Alexander Earl of Sutherland "wes in his infancie noorished and brought up in Grangehill, in Murray, among the Dumbars".⁴⁸ As has already been seen Sir Robert Gordon who was born in 1580 was fostered.⁴⁹ By the 1630s, however, no mention is made by Sir Robert, who is generally a careful chronicler of the affairs of the family, of fosterage of the sons of the family. Instead Sir Robert records the godfathers and godmothers of John Gordon Lord Strathnaver and George Gordon the second son.⁵⁰

This reflects a change in fashion: fosterage no longer appearing to be the best way of bringing up children and reflects a major change in the cultural environment in which future chiefs were reared. Sir Robert was a courtier who was greatly influenced by the culture of England. For the Earls of Sutherland it appears that the fosterage of future chiefs ended in the early 17th century.

There are a number of references, however, to fosterage in the second half of the 17th century which indicate that the institution certainly continued amongst some kindreds. For example the contract of fosterage of 8 December 1665 between George Campbell of Airds and *Donald Dow McEwin* and *Roiss NcOdochardie* his spouse, for the fostering of George's daughter Issobel for seven years.⁵¹ John MacKenzie, third son of MacKenzie of Coul was fostered in his childhood and went on to Aberdeen University and later qualified as an advocate.⁵² Sir Aeneas MacPherson stated in "A short abstract" referring to himself that "(according to the forme and custome of the Highlands) he was sent out by his vice-parents, a dry-nurseing, or a fostering, till he was of age to go to schools".⁵³ MacPherson also went to University in Aberdeen, trained as an advocate and produced a number of works as an author. These instances are not from the apex of Highland society and the lack of evidence for fosterage among the major chiefs by the later 17th century surely indicates that the custom was in decline by this time.

EDUCATION

This section will examine how the sons and daughters of Highland chiefs were educated in the period from c1550 to 1700 by looking at attendance at school and literacy in Scots and Gaelic.⁵⁴

c1550 to 1600

The church played an important role in the education of some of the chiefs in the middle of the 16th century. In the Wardlaw MS it is stated that Alexander Lord Lovat was educated by Robert Reid, Bishop of Orkney, who "kept noblemen's children with him at table and lodging". These included a number of future chiefs besides Lovat and his brother William Fraser: MacKenzie of Kintail, Munro of Foulis, Ross of Balnagown, Urquhart of Cromartie and the sheriff of Murray.⁵⁵ In 1558 the Tutor of Lovat's nephew was being educated by local monks.⁵⁶

Archibald Campbell, the 5th son of Sir Duncan Campbell of Glenorchy, was attending the burgh school of Perth in 1598.⁵⁷ And it was perhaps here that his brothers were educated although no evidence has been uncovered. The document known as the "Evil Troubles of Lewis" states that Norman MacLeod of Lewis was educated in Perth: "The mckenzie's at this tyme had gotten Normand mcLeod(the brother of Torq) into ther hands, hawing tacken him from the school of St Johnstoune".⁵⁸

After his fosterage Sir Robert Gordon was sent to school with his elder brother John, the future Earl of Sutherland, "to be bred in the toun of Dornogh with Mr William

Pape, schoolmaster of that place" until 1596.⁵⁹ *Allan McConell Due*, son of Cameron of Lochiel, was entrusted to the care of his kinsman Mr John Cameron, minister of Dunoon, until he was old enough to go to school.⁶⁰

Some Highland chiefs continued their education at University in the later 16th century. Simon Lord Fraser of Lovat was sent to King's College Aberdeen in the 1580s "to the care and tutelage of Mr William Rate, subprincipall".⁶¹ Sir Robert Gordon and Sir Alexander Gordon, the two brothers of the Earl of Sutherland, were sent to St Andrews for six months and then to Edinburgh University to continue their studies in the late 1590s.⁶² According to a Letter of Presentation of 21 July 1570, Hector Munro, the third son of Robert Munro of Foulis, attended the College of St Leonard's at St Andrews.⁶³ Sir Alexander Menzies of that Ilk was a student at Glasgow University at the time of his father's death⁶⁴ and in the 1566 George Ross, the son of Ross of Balnagown was attending the "New College of Sanct Androw".⁶⁵ William Rose, the second son of Hugh Rose of Kilravock, also attended University at St Andrews in the later 16th century.⁶⁶

The above evidence reveals that a number of chiefs were attending school and some going on to University in the later 16th century. Another indication of the level of education is literacy. This does not necessarily suggest time spent at school but does show that some time was spent on learning to write and presumably to read. Bannerman has made a detailed study of literacy in the Highlands in the 16th century. He states that "with some exceptions, like the Campbell earls of Argyll, examples of heads of kindreds, great and small, able to sign their name in Scots were few before 1500".⁶⁷ There is increasing evidence of literacy in Scots among Highland chiefs as the 16th century progresses but "the evidence for literacy in Scots is not only less in the far west but is also later in time".⁶⁸ In 1569 the following chiefs signed a

document registered with the Privy Council: John Grant of Freuchy, Colin MacKenzie of Kintail, Alexander Ross of Balnagown, MacIntosh of Dunnachton, Urquhart of Cromartie, Munro of Foulis, Sutherland of Duffus and MacKay of Strathnaver, revealing that most of the chiefs of the major kindreds in the Northern Highlands were literate in Scots by this time.⁶⁹

The history of literacy in Gaelic is less well documented but it appears that a number of chiefs were literate in Gaelic in the 16th century. Bannerman states that "the key to literacy in Gaelic among the laity lies in the bardic poetry. There had to be an audience for this poetry and it is inconceivable that it was not intended to be fully intelligible. If the poet required training to become proficient in his art, so did his audience to fully appreciate the results thereof".⁷⁰ He considers that the ability to write Gaelic was relatively common in the upper levels of society. Chiefs who could write in Gaelic included Donald Gorm, chief of the MacDonalds of Sleat from 1585 to 1617: "His elegant Gaelic hand is sufficient indication of his training in the classical tradition".⁷¹ Other examples are Ruairi Mor MacLeod of Dunvegan, Lachlan MacKinnon of Strathordle and Donald Gorm MacDonald of Borrodale the nephew of Donald chief of Clanrannald.⁷² Bannerman dates the beginning of the decline in the ability of the Highland elite to write in Gaelic towards the end of the 16th century⁷³ but this may have been earlier in the eastern and southern Highlands.

1600 to 1650

In 1603 John MacIntosh, the son of Lachlan MacIntosh of Dunnachton, was attending school in Edinburgh⁷⁴ and in 1614 Allan MacIntosh, another son of Lachlan, was also being educated in Edinburgh.⁷⁵ A letter of 24 August 1619 from James Mowat to

Campbell of Cawdor referred to the education of Cawdor's sons in the capital: "Johne and Coleine learnis weill".⁷⁶ In 1619 Sir Robert Gordon left his nephew the Earl of Sutherland at the burgh school of Dornoch and committed him to the care of Mr John Gray dean of Caithness.⁷⁷ Somewhat unusually Sir Donald MacKay of Strathnaver's sons, John and Angus, were educated at school in Denmark because of their father's travels as a soldier during the Thirty Years War.⁷⁸ Ewen Cameron of Lochiel, who was born in 1629, having been fostered for his first seven years with Mr Cameron of Letterfinlay, was educated by his uncle until he was twelve and then committed to the tuition of the Marquess of Argyll who sent him to school in Inverary.⁷⁹

Members of the Campbell of Glenorchy family were educated at a number of different burghs during this period. In 1632 and 1633 Alexander Campbell of Auchinrre was attending the burgh school of Dundee.⁸⁰ William Campbell, the son of Robert Campbell of Glenfalloch, was being educated at the burgh school in Stirling in 1635.⁸¹ John Campbell of Glenorchy, who became first Earl of Breadalbane in 1681, was educated at school in Edinburgh in the late 1640s.⁸² James Fraser, the 5th son of Hugh Lord Fraser of Lovat, was at school in Inverness in the 1640s⁸³ and in the early 1650s the young Earl Kenneth of Seaforth was placed in Elgin with "Mr George Cuming, professor of humanity there".⁸⁴

As is well known the government took a close interest in education amongst the Island kindreds in the early 17th century. The Statutes of Iona of 1609 state the following:

it being undirstand that the ignorance and incivilitie of the saidis Iles hes daylie inressit be the negligence of quid educatioun and instructioun of the youth in the knowlege of God and good letters for remeid quhairof it is inactit that everie gentilman or yeaman within the said Ilandis, or ony of thame, haveing childreine maill or famell, and being in goodis worth thriescore ky, sall put at the

leist thair eldest sone, or haveing no childrene maill thair eldest dochter, to the scuillis on the Lawland, and interteny and bring thame up thair quhill thay may be found able sufficientlie to speik, reid, and wryte Inglische.⁸⁵

This does not refer to the education of the Island chiefs but rather to the clan gentry in the Islands who were still being educated in a Gaelic context in 1609. The implication, however, is that the Island chiefs could "speik, reid, and wryte Inglische" by this time. There is evidence that the Island chiefs were educating their children in the Lowlands by the early 17th century. In 1615 the bairns of Sir Rorie MacLeod of Dunvegan were at school in Glasgow.⁸⁶ Discharges from 1622 and 1623 for board and lodgings indicate that other MacLeod children were receiving their education in Glasgow at this time.⁸⁷ Norman and William MacLeod, the brothers of John MacLeod of Dunvegan, are described in a discharge of 17 June 1632 as students in Glasgow.⁸⁸ The Captain of Clanranald's son was being educated in Edinburgh in 1615.⁸⁹

Some of the sons of Highland chiefs attended University in the early 17th century. In 1605 Hugh Master of Lovat was sent to St Andrews.⁹⁰ The Marquess of Argyll matriculated at St Andrews on 15 January 1622⁹¹ and in April 1624 the Earl of Sutherland went to Edinburgh University for two years and then in December 1626 on to St Andrews.⁹² In 1634 David Ross of Balnagown was at Edinburgh University⁹³ and Lachlan MacIntosh, Sir Lachlan MacIntosh's second son, undertook a three year course of philosophy at Marschall college in Aberdeen between 1632 and 1635.⁹⁴

The final stage of the education of a chief's son could be a period of foreign travel and there is some evidence for this in the early 17th century among the most powerful Highland kindreds. The Earl of Sutherland spent two years in France returning in September 1600.⁹⁵ According to the Kinrara MS, John MacIntosh, 4th son of

Lachlan Mor, was "a man of courtly breeding, having lived in his youth in France".⁹⁶ In 1614 Sir Robert Gordon sent his nephew John MacKay to France where he remained for two years and three months.⁹⁷ In early 1647 Lord Lorne, his brothers and their entourage left for a Continental tour which took them through France and Italy and lasted for two years.⁹⁸

Some chiefs, however, could not write in Scots in the early 17th century. A bond registered with the Privy Council which was drawn up in 1601 was witnessed by Alaster MacGregor of Glenstrae led by a notary "because I cannot wryte"⁹⁹ and Lachlan MacLean of Coll was led by a notary in 24 August 1616 when witnessing a Bond of Friendship.¹⁰⁰

1650 to 1700

Most of the Highland chiefs were literate in Scots/English and receiving schooling by the early 17th century and by the later 17th century the clan gentry were literate in Scots/English and schooling was common amongst their ranks. A letter of 2 February 1678 from Portree from twelve MacDonald gentry to Lord Tarbat is signed by them all.¹⁰¹ Another letter to Tarbat is signed by MacDougall of Dunolly and thirteen MacDougall gentry in April 1688¹⁰² and a letter dated Fortrose 1 December 1697 is signed by R. MacKenzie and 24 members of the MacKenzie kindred.¹⁰³ A discharge of 9 August 1665 indicates that Ronald and Donald, the two sons of Ronald MacDonald of Benbecula were at school in Glasgow.¹⁰⁴ According to the magistrates of Inverness who were supplicating the Privy Council on 24 February 1680 for a stone bridge to be built over the River Ness, Inverness was "where most of the gentry are educat".¹⁰⁵

LANGUAGE

From the above discussion of the education of Highland chiefs it would appear that by the later 16th century many were being educated in the Lowlands and some were going on to University. This obviously had linguistic repercussions: although initially brought up in a Gaelic speaking environment in their early years and during their years with foster-parents, their schooling in the Lowland burghs would be in a Scots speaking context and so by the early 17th century if not by the late 16th century most Highland chiefs were probably bilingual. It is difficult to determine whether Gaelic remained the first language of the chiefs in the course of the 17th century. The employment of Gaelic poets would certainly be indicative of a continuing fluency in Gaelic. Hopkins, however, suggests that by the later 17th century the first language of nearly all the Highland magnates was Scots; one exception being the third Earl of Seaforth.¹⁰⁶ Here he is referring to the Highland Earls and Lords and this may well have been the case. However, the distribution of the Irish Gaelic Bible among various chiefs in the later 17th century, the continuation of the custom of fosterage and the employment of Gaelic poets suggests that most Highland chiefs remained Gaelic speakers throughout the 17th century.

Things might be different for those Highland chiefs who were brought up outside the Gaidhealtachd but the indications are that during the 17th century, even in these circumstances, an effort was made to educate future chiefs in their native culture. For example on 4 December 1637 Lady Lorne wrote to Sir Colin Campbell of Glenorchy about her son's Gaelic lessons.¹⁰⁷ Her son was the foster child of Campbell of

Glenorchy who had been brought up in a non Gaelic speaking environment before he was fostered.

In the early 17th century the Earl of Sutherland was not a Gaelic speaker. In a letter to him from his uncle Sir Robert Gordon, he was advised that "it is also requisite that yow learne to speak the vulgar language of the countrey that yow may truelie understand and uprightlie judge the complaints of the poor ons".¹⁰⁸ Learning to speak Gaelic was considered to be part of good lordship. The Gordon Earls of Sutherland although belonging to the Highland elite had moved into the Highlands at a relatively late date and it seems possible that Gaelic was never their first language. Despite encouraging the young Earl to learn Gaelic Sir Robert had strong views about the future of the language: "The Ireishe language cannot so soone be extinguished. To help this plant schooles in everie corner in the countrey to instruct the youth to speak Inglishe".¹⁰⁹

Kenneth third Earl of Seaforth was brought up outside a Gaelic speaking environment; his mother was Barbara, daughter of Arthur Lord Forbes.¹¹⁰ According to the Ardintoul MS he was placed in the care of Rev. Farquar MacRae, minister of Kintail and constable of Eilandonan Castle, with the sons of the neighbouring gentry, and it is stated that "he did not only learn the language but became thoroughly acquainted with and learned the genius of his several tribes or clans of his Highlanders".¹¹¹ He succeeded as third Earl in 1651 when he was a student at King's College Aberdeen.

LEISURE AND ENTERTAINMENT

Much Highland History in the early modern period has focused on political events such as clan feuds and military campaigns. Other aspects of life in the Highlands have received relatively less attention from historians. The study of leisure and entertainment as part of the social and cultural life of the Scottish nobility and indeed Scottish society as a whole is still in its infancy for the early modern period. This section aims to examine how the leisure activity of the Highland chiefs was changing in the period from c1550 to 1700 as an indicator of cultural change.

c1550 to 1600

Central to the entertainment of the chiefs was the employment of Gaelic poets, musicians and historians: often as members of hereditary professional families. This aspect of the cultural life of the Highland chiefs has been discussed by a number of commentators.¹¹²

The letter to King Henry VIII of England of 1543 from John Elder gives an early description of the leisure pursuits in the Highlands. Elder stated that the Highlanders, or Redshanks as he called them, took pleasure in activities such as hunting, running, leaping, swimming and shooting.¹¹³ We might regard these as the traditional leisure pursuits of a rural society. That hunting was a central aspect of the leisure pursuits of the Highland elite at this time can be seen in Monro's description of the Western Isles of 1549. He described the deer hunts which took place on the island of Jura: "all the

deiris of the west part of the forrest will be callit be tynchells to that narrow entres, and the next day callit west be tynchells throw the said narow entres, and infinit deir slain there".¹¹⁴ Pitscottie described a great hunt organised by the Earl of Atholl for the entertainment of James V in 1529¹¹⁵ and in 1564 the Earl of Atholl entertained Mary Queen of Scots at a similar hunt.¹¹⁶ An account of the hunt by William Barclay who was attending as part of the Queen's entourage states that two thousand highlanders or "wild Scotch" were employed to drive the deer to the hunting ground and 360 deer were killed on one day.¹¹⁷ Hunts on a smaller scale probably took place throughout the Highlands at this time.

Monro's account of his travels in the Western Isles reveals a less well known leisure pursuit of the Island chiefs. He describes the island of Raasay "with twa castellis...with twa fair orcheartis at the saidis castellis"¹¹⁸ and Ellan Cholmkle "within this Ile Mccloyd of Leozus hes ane fair Orcheard, and he that is gardiner hes that Ile frie".¹¹⁹ Orchards were of economic importance supplying the local castles with fruit but they were also associated with leisure; a leisure interest in themselves and places in which a chief and his family could relax. David Lord Drummond's testament reveals that at the time of his death in May 1571 he owed a year's fee of £13 6s 8d to his gardener Robert Bresting.¹²⁰ It would seem unlikely that MacLeod of Lewis was the only member of the Highland elite to have orchards and that he and Lord Drummond were the only chiefs to employ a gardener in the 16th century.

Perhaps the most important source for the study of the leisure activities of Highland chiefs in this period is the Genealogical History of the Frasers of Lovat written by Mr James Fraser in the later 17th century. According to this source in 1557 Fraser of Lovat and his father-in-law, Campbell of Cawdor, made a progress through the Highlands to Glenelg where they "kept severall days of hunting" and then went on to

visit Iona.¹²¹ In the 1590s Lord Lovat travelled to Glenelg with two hundred of his clan gentry and other chiefs including MacKenzie of Kintail, Munro of Foulis, Campbell of Cawdor and Grant of Glenmoriston where they met with MacLeod of Dunvegan for sport and hunting.¹²² In the 1570s the nobles of Inverness-shire gathered at Inverness and took part in various sports in the chapel yard including archery, football, putting the stone, throwing the bar and gaming.¹²³ Such leisure activities were part of the social gatherings of the Highland elite and helped to cement peaceful relations between kindreds by providing opportunities for chiefs and their kindreds to compete non-violently.

1600 to 1650

The Wardlaw MS informs us that an annual horse race was held about the promontory of *Tomnihurich* and Lord Lovat and his family won the race, except for one year out of seven, "for he kept a stall of singular race horses".¹²⁴ In January 1636 Simon Master of Lovat went to King's College Aberdeen where he was "singular at all exercises and recreations, balloun, cachpole, byars, bowles, the golfe and artching".¹²⁵ A Lowland education was exposing a chief to leisure activities such as bowls and golf.

An undated account in the Breadalbane Muniments, the handwriting of which would place it somewhere in the early 17th century, included sums spent on golf balls.¹²⁶ It is most likely that these were for use in the Lowlands; no evidence has as yet been unearthed of a golf course on the lands of the Campbells of Glenorchy at this time. This is an indication, however, that either Sir Duncan Campbell of Glenorchy, or his sons, or his grandsons, played golf in the early 17th century. Sir Robert Gordon tells

us the following about the town of Dornoch: "about this toun(along the sea coast) ther ar the fairest and largest linkes...fitt for archery, goffing, ryding, and all other exercise".¹²⁷ Golf already had a long history as a game played by the nobility in Scotland¹²⁸ and it appears to have been taken up by some of the Highland chiefs by at least the early 17th century. The Marquess of Argyll extolled the virtues of golf to his son in a book written shortly before his execution: "that excellent recreation of goff-ball, then which truely I do not know a better".¹²⁹

The chiefs of Glenorchy had a keen interest in literature¹³⁰ and they also maintained a picture gallery; the early Scottish portrait painter Jamesone being employed to paint a series of pictures in the 1630s.¹³¹ These trends in leisure reflect the extension of Lowland education amongst the Highland elite and closer relations with the fashions of the English and European nobilities. John Earl of Sutherland wrote to his brother Sir Robert Gordon from Dunrobin on 22 May 1615 requesting "ane pair of the fynest doule virginallis" since his children were learning to play and sing.¹³² Sir Duncan Campbell of Glenorchy's grandchildren were being taught "the airt of museik and to play on the virginnell" during the years 1619 and 1620.¹³³

Poetry, song and stories also made up an important part of the entertainment of Highland chiefs throughout the 17th century. Gaelic poets were still employed by the chiefs in the 17th century and their work provides evidence about the leisure activities of the Highland elite. Ian Lom gives a description of gambling in "Oran Do Dhomnall Gorm Og" (A Song to Domhnall Gorm Og): "Gu talla nam pios, Far am fàramaich' fion, Far am falaichear mìle crann" (To the hall of the silver vessels, where wine is most merrily dispensed, and where a thousand wagers are concealed).¹³⁴ In the same poem he indicates that chess was played: "Bidh cruit is clarsaich, 'S mna uchd-aillidh, 'N tur nan taileasg gearr" (There will be violins and harps and fair-bosomed women in

the tower of short-chess boards),¹³⁵ and in the poem "Cumha Morair Hunndaidh" (A Lament for the Marquis of Huntly): "Bhiodh foirinn air tailisg, Is da chlarsaich an comhstri, Gus am freagradh am balla, Do mhac-talla nan organ" (chess-men were placed on chess-board while two harps vied with each other until the wall answered to the echo of the organs).¹³⁶ In "Oran Do Mhorair Ghlinne Garaidh" (A Song to the Laird of Glengarry) he wrote: "Gu Aros mo ruin, An cluinnt' clarsaichean ciuil, Iomairt thaileasg air chruintean oir" (to Aros that I love, where harps may be heard making melody, and chess is played with gold crowns as stakes).¹³⁷ These traditional forms of entertainment are also revealed in the poetry of Eachann Baccach: for example in the poem "Iorram": "Gum b'airidh luchd teud sibh, Ann an airgead no'n eudach: Aos dana chan euradh sibh duais dhaibh" (You proved worthy of harpers, in money or in clothing: you would never refuse a reward to poets).¹³⁸ These descriptions refer to the chiefs of the western seaboard and the Islands and reflect the strongly Gaelic version of leisure and entertainment that retained its hold throughout the 17th century.

1650 to 1700

In 1655 the Earl of Seaforth and a large party of the Fraser kindred went on a hunting trip where they engaged in activities including jumping, archery, shooting and throwing the bar.¹³⁹ The horse race that has already been described was restarted in 1662 after a forced break during the civil war period¹⁴⁰

In 1673 the children of the family of Campbell of Glenorchy were playing golf and "byasse bowls" in the Lowlands where they were being educated.¹⁴¹ A contract between John Campbell younger of Glenorchy and George Lillie, gardener, of 17 April 1663 in which George was to be employed "for the labouring and dressing of the

Garden orchard bouling grein and uther works" reveals that ther was at least one bowling green in the Highlands in the later 17th century.¹⁴² Other Scottish nobles such as the Duke of Hamilton and the Earl of Rothes had built bowling greens by this time.¹⁴³

Other Highland chiefs had an interest in gardens and trees in the later 17th century. On 27 May 1667 Archibald Campbell 9th Earl of Argyll wrote to John Maitland Earl of Lauderdale that "I am fallen much in conceate with elme, and it grows well with me" and he continued "My gardine is now finished, all save the walls".¹⁴⁴ In 1677 Robert Smith in the Canongate of Edinburgh agreed to become the gardener of Jonathan Urquhart of Cromartie for an annual fee of £72.¹⁴⁵ Seeds were sent from Edinburgh to the gardener of Campbell of Cawdor in the 1680s.¹⁴⁶ In 1685 the Marquess of Atholl removed the trees from the orchard of the Earl of Argyll following the Earl's failed rebellion. In 1699 Argyll raised an action in the courts against the Marquess of Atholl for taking them.¹⁴⁷ This gives an indication of the value attached to trees at this time.

ANGLICISATION

This section will determine the significance of the process of anglicisation on the Highland chiefs in the period from c1550 to 1700. "Anglicisation" is understood to mean the transformation of Scottish life in terms of society and culture to forms indistinguishable from those found in England.

Language will first be examined. As has been shown above by the later 16th century many of the Highland chiefs were bilingual, speaking Scots and Gaelic, and by the end

of the 17th century they all were. The Scots that they spoke was the Scots of Scottish elite society which was itself undergoing a process of anglicisation. This could result in sensitivity about the use of Scots. For example an undated memo from John Campbell, first Earl of Breadalbane, to his cousin and legal agent Colin Campbell of Carwhin, required Carwhin to "put all in good words and styl fit for being printed, thrfor leav out as much as may be the Scotisisms of your lawyers and wretters styl".¹⁴⁸

Another area to be considered is marriage. If a chief married into the English landowning class the first language of his children was unlikely to be Gaelic and the general culture in which they were brought up was transformed especially if they spent time at their maternal grandparents in England. Very few members of the Highland elite married into the English nobility before 1650 but the number increased thereafter as impoverished Highland chiefs sought richer brides south of the border. MacKenzie chiefs had married into Highland and Lowland noble families but Kenneth 4th Earl of Seaforth married Francis Herbert, 2nd daughter of William first Marquess of Powis, in the later 17th century. In 1659 John 2nd Earl of Atholl married Amelia Anne Sophia Stanley, 4th daughter of James 7th Earl of Derby. The second wife of John 15th Earl of Sutherland was Catherine Tollemache, 4th daughter of Sir Lionel Tollemache of Helmingham, John Campbell Earl of Breadalbane's first wife was Mary, daughter of Henry Rich, Earl of Holland and the second Earl of Breadalbane's two wives both came from England. However, lesser chiefs such as MacKenzie of Tarbat, Fraser of Lovat and MacDonald of Glengarry continued to find brides amongst the Scottish landowning class in the later 17th century.¹⁴⁹ Anglicisation through marriage into English society was therefore affecting only some of the most powerful of the Highland elite.

Another feature of closer links with England was the employment of English servants. It is shown below that the years from c1550 to 1700 were ones of dramatic change in the nature of the servitors employed by the chiefs. Many incoming Scots speakers took up employment in the households of the chiefs as notaries public and legal servitors.¹⁵⁰ There is also a small amount of evidence which indicates that after 1650 some Highland chiefs began to employ English servants.¹⁵¹

For the period from c1550 to 1700 the focus of anglicisation was principally language. Its application to other aspects of the social and cultural life of the Highland elite should not be overstated. Highland Lordship maintained many of its distinctive features, the sons of chiefs were still being fostered and education remained in a Scottish context. The years around 1650 represented a watershed with increased evidence of anglicisation after 1650. The Marquess of Argyll commented on this when he wrote:

English Customes, and the greater correspondency and mutual friendship, that is likely to arise between them, (which is now more advanced by the warr, then by the long projected union).¹⁵²

KING, COURT AND PARLIAMENT

The rest of this thesis will examine the relationship between Highland chiefs and the Scottish legal profession. Edinburgh lawyers were employed by the chiefs so that they could make use of the courts and laws of central government. By way of introduction it is necessary to examine the interaction between chiefs and the highest institutions of the central government. This will focus on the relationship between chiefs and King,

Court and Parliament. The relationship between chiefs and the other central legal institutions, of Privy Council, Court of Session and Justiciary Court, will be explored in later chapters which look at the lawyers who worked for the chiefs in these courts.

HIGHLAND CHIEFS AND THE SCOTTISH COURT C1550 TO 1603

The highest level of central power was the King and his Court. There is evidence that chiefs were travelling to the Scottish Court in the period from c1550 to 1603. In a complaint before the Privy Council in 1565 by Hector MacLean of Coll it was stated that Coll was "absent for the tyme out of his awin cuntre within the toun of Edinburgh".¹⁵³ A journey to Edinburgh of any length would have presumably involved a visit to Court. In 1569 Lord Hugh Fraser of Lovat journeyed south to Edinburgh where he spent time at Court.¹⁵⁴ In February 1588 the Earl of Sutherland was able to launch an attack on the Earl of Caithness with a Commission obtained at Court by means of the influence of Chancellor Maitland.¹⁵⁵ On 20 April 1587 James VI wrote the following to the Earl of Huntly from Edinburgh: "hes spokin with McClane, being heir for the same effect".¹⁵⁶ There is also abundant evidence in Chapter 2 of the growing relationship between Highland elite and Edinburgh legal profession and of time spent in Edinburgh taking legal cases through the central courts.¹⁵⁷ It seems unlikely that chiefs would have travelled so far and not visited the Court.

HIGHLAND CHIEFS AND THE COURT IN ENGLAND 1603 TO 1700

With the ascendancy of James VI to the English throne in 1603, Highland chiefs who wished to gain access to the King now had to make the long journey to Court in the

south of England. The removal of the Scottish Court in 1603 was to have profound repercussions for the Scottish nobility; the removal of the focus of their social, cultural and political life to distant London and the creation of a division between courtly life in London and Parliamentary, Privy Council and legal life in Edinburgh.

In January 1606 Sir Robert Gordon travelled to England and entered the service of James VI as one of the gentlemen of the King's privy chamber; first as an extraordinary and then in ordinary service. He was knighted and given a yearly pension of £200 sterling from the English Exchequer for the rest of his life.¹⁵⁸ Charles I also made him a gentleman ordinary of his privy chamber.¹⁵⁹ Sir Robert provided a fine example to other members of the Highland elite of the possible benefits that could be gained from taking the long road to London; money and honours.

Sir Robert believed that exposure to the English Court could morally benefit young members of the Highland elite:

Everie tyme that Sir Robert Gordoun returned from Southerland to the court of England, he still took with him some young gentlemen of his owne freinds, that they might see the cuntrie, and to remark the court...By which meanes the cheiff gentlemen of the countrey of Southerland became more civil then the rest of their nighbouring cuntries.¹⁶⁰

In April 1616 Donald MacKay accompanied his uncle Sir Robert Gordon to the English Court where "Sir Robert maid his nephue knowne to the King and prince, by whom he was graciouslie used, and knighted by the King at Tyballs".¹⁶¹

Sir Robert gave the following advice to another of his nephews, the Earl of Sutherland:

If yow have two or thrie sones, make one of them a courtiour after his trawells abroad in other countreys. Let him be bred in England: for it is requisite that some of our nobilitie be about ther prince.¹⁶²

Other chiefs made the journey to Court in the early 17th century. Relations between London merchants and Highland chiefs indicate that the chief had travelled to London presumably to attend court and was raising funds to cover the expense of the visit. A bond drawn up in London on 1 May 1619 by which Sir Lachlan MacIntosh borrowed 1000 merks from John Jowsie, a London merchant, indicates that MacIntosh was visiting court at this time.¹⁶³ Sir Lachlan was created a gentleman of the bedchamber on one of his visits to Court.¹⁶⁴

John MacNaughton, third son of the Laird of MacNaughton¹⁶⁵ and Sir William Stewart apparent of Grandtully¹⁶⁶ went to England with King James in 1603. According to Cowan, Elizabeth of Bohemia, the daughter of James VI, referred to her favourite the Earl of Seaforth as "my highlander".¹⁶⁷ In 1613 Sir Rorie MacLeod of Dunvegan made the journey to Court and was knighted.¹⁶⁸ Sir Duncan Campbell of Glenorchy visited Court in April 1602 and then went on to visit the French Court.¹⁶⁹ His son and heir Colin Campbell of Glenorchy made the journey to Court in England in 1628.¹⁷⁰ In 1631 Sir John Grant of Freuchy and Grant of Glenmoriston were in London waiting on the Court¹⁷¹ and in a letter from George Earl of Seaforth to Grant of Freuchy we are informed that Grant's son was at Court in 1635: "Your sone is com home, quho did behave compleitly and weill quhen he was at court".¹⁷²

Some chiefs sent their legal agents to represent them at Court in England. James Mowat wrote to Sir John Campbell of Cawdor from Thiebols on 18 September 1621:

"I have spokin withe the King at Wodstock". He went on to inform Cawdor that Sir James MacDonald of Sleat, MacDougall of Ragray and the Laird of MacNaughton were then in England.¹⁷³ Sir Duncan Campbell of Glenorchy employed the services of two agents at the English Court in the early 17th century.¹⁷⁴

A number of chiefs from the mainland and the Islands therefore made the journey to London in the period from 1603 to 1650 and were no doubt influenced by the lifestyle and manners that they saw there. These trips were also very expensive. An account from 1621 indicates the kind of costs incurred on a journey to London by a Scottish nobleman.¹⁷⁵

The English Court remained the focus of Highland chiefs in the later 17th century. In a letter of 30 September 1700 the first Earl of Breadalbane remarked that "a man out of court is as a bee without a sting".¹⁷⁶

Sir Aeneas MacPherson, an advocate of Highland origins, attended the Courts of Charles II and James VII. He secured the position of sheriff depute of Aberdeen-shire from Charles II, although he had been hoping for the more lucrative position of one of the clerks of the Court of Session.¹⁷⁷ He was knighted by James VII and appointed Governor of Nevis, one of the Lesser Antilles¹⁷⁸ and worked at the English Court for others: "I was imployed by severalls, who had affairs depending befor the Court, to speak to his Maj. in their behalf".¹⁷⁹

Gaelic poets of the later 17th century make a number of references to time spent by their chiefs at Court in England. "A Mhorair chlann Domhnaill, 'S buan do chomhnaidh measg Ghall"(Lord MacDonell, long is your sojourn among strangers) bemoans Ian Lom in his "Murt na Ceapaich"(The Keppoch Murder) and in the same poem "Tha

sinne corrach as t'aonais, Mar cholainn sgaoilte o'n cheann"(we are unbalanced without you, like a body separated from the head).¹⁸⁰ Iain Lom had further scathing comments about the moral decay of court life in "Oran Do Mhorair Chlann Domhnaill" (A Song to Lord MacDonald c1665): "Gur fada leam an Sasann thu, 'S a bhith 'gad chreach le spors"(You seem to me to be a long time in England, being ruined by gaming).¹⁸¹ For other poets, however, the journey of their chief to Court was something to be celebrated. In Lachlan MacLean's "Oran do Lachann, triath Cholla"(Song to Lachlan, Lord of Coll, 1687) he praises MacLean of Coll: "Bha thu 'd mharcaich anns a' chuir" (You were a knight at court).¹⁸² Mary MacLeod in her "Lament for MacLeod" was also proud to see her chief attending Court: "Ann an Lunnainn 's am Paris, Thug sibh barr air na ceudan"(in London and in Paris you have excelled hundreds).¹⁸³

HONOURS

One of the attractions of attending Court was the possibility of being given an Honour by the King. An interest in the honours that could be distributed by the English King can be traced back to the 1540s. In his letter to King Henry VIII John Eldar says the following:

More-over, heringe and seinge what love and favour the valiaunt Yrishe lordes of Scotland, other wayes callid the reddshankes...beris unto your said Maiestie...sene they heire and understand, how mercifully, how graciously, and how liberally your noble Grace hath used, orderide, and dealide with the lordes of Irland, ther nyghboures, which have continewid so many yeaeres rebellis; perdonying and forgyving theame ther offences and trespasses; creating of them, some erlis, some lordes, and some

barons: rewarding theame more like princis then erlis and lordis, with gold, silver, and riches; and sending theame home agane with gorgious indumentis, and rich apparell.¹⁸⁴

A number of Highland chiefs were already members of the Scottish Peerage: the Earls of Sutherland, Atholl and Argyll. By the later 16th century there was a dearth of Highland chiefs who were members of the Scottish Peerage at the level of Lord; Lord Fraser of Lovat and Lord Drummond, if we consider him to be a Highland chief, being the only examples. The reason for this must have been the domination of the Highlands by the large territorial Earldoms and the Lordship of the Isles in the later medieval period. In the territory of the Lordship there were a number of chiefs who in terms of land and military strength seem to have been comparable with other Scottish Lords. An intelligence report on the Scottish nobility, *A catalogue of the Scottis Nobilitie and Offices of the Estat 1602*, lists two Marquesses, 22 earls and 31 Lords.¹⁸⁵ The group of Lords from the Highlands includes Lovat but also five others who were not members of the peerage but who are included with the Lords because in terms of power they were considered to be the equal of Lords. This group included the Captain of Clanrannald, MacDonald of Islay, MacLeod of Lewis, MacKenzie of Kintail and MacLean of Duart. MacLeod of Lewis and MacDonald of Islay were both displaced in the early 17th century.¹⁸⁶

The late 16th and early 17th century saw an inflation of Honours in Scotland. Highland chiefs were amongst those who were awarded peerages, knighthoods and baronetcies. Kenneth MacKenzie of Kintail was created Lord Kintail in 1609 and his son Colin was made Earl of Seaforth in 1623 recognising the explosive growth of the MacKenzie kindred in the late 16th and early 17th century. MacKay of Strathnaver became Lord Rae in 1628. However, most honours distributed to chiefs were knighthoods, even though in terms of relative power some might have expected to join

the peerage. Such an inflation intensified rivalries. On 23 February 1615 the Earl of Sutherland wrote to his brother Sir Robert Gordon about knighthoods given to the associates of the Earldom of Caithness: "I wald not have us inferiours to thame in that; so my awin opinione is that ye use your moyen to sie if ye can get Jhone McKy maid knyght before his hamecuming".¹⁸⁷

The Highland chiefs who were knighted in the later 16th and early 17th century by James VI were James Campbell of Ardkinglass, Duncan Campbell of Glenorchy, John Murray of Tullibardine, Thomas Stewart of Grandtully, James Stewart of Balliachane, Coll Lamont of Inveryn, Lachlan MacIntosh of Dunnachton, Lachlan MacLean of Duart, Rorie MacKenzie of Coigach, Donald MacKay of Strathnaver, Robert Gordon, brother of the Earl of Sutherland, Rorie MacLeod of Dunvegan, John MacDougall of Dunolly, John Grant of Freuchy, John Buchanan of that Ilk, Lachlan MacKinnon of Strathordle, Donald MacDonald of Sleat, Alexander Menzies of that Ilk, Donald Campbell of Ardnamurchan, Thomas Urquhart of Cromarty, Lachlan MacLean of Morvern and Aulay MacAulay of Ardincaple.¹⁸⁸

A number of Highland chiefs bought New Scotland Baronetcies when they were put up for sale in the 1620s. In 1625 creations included Sir Robert Gordon, 4th son of Alexander Earl of Sutherland, Sir Duncan Campbell of Glenorchy, Donald MacDonald of Sleat and John Colquhoun of Luss; in 1626 John Moncreiff of that Ilk; in 1627 Sir Donald MacKay of Strathnaver, Sir Colin Campbell of Lundy; in 1628 Sir Dugald Campbell of Auchinbreck, Sir Donald Campbell of Ardnamurchan and Sir John MacKenzie of Tarbat; in 1631 John Gordon of Embo and Sir Lachlan MacLean of Morvern and in 1634 Colonel Hector Munro of Foullis.¹⁸⁹



During the rest of the 17th century the following chiefs became members of the Peerage: Alexander Sutherland of Duffus created Lord Duffus c1651; John Campbell of Glenorchy became Earl of Caithness in 1677 which was annulled and then Earl of Breadalbane in 1681; Angus MacDonald of Glengarry was created Lord MacDonell and Aros in 1660 and Sir George MacKenzie of Tarbat was created Viscount Tarbat in 1685. Archibald Earl of Argyll was created Marquess of Argyll in 1641 and John Earl of Atholl was created Marquess of Atholl in 1676. The distribution of honours may be regarded as an attempt by the government to pull the Highland elite into a closer dependency on the Crown and so influence their political behaviour and extend the power of the Crown. The ethos of aristocracy and the honours system fitted well with the outlook of the Highland elite and the extension of the honours system to include more of the Highland elite should be regarded as an important aspect of the way in which central government aimed at bringing the Highland elite into closer association with Lowland culture.

The ideology of aristocracy is reflected in the poetry of Ian Lom. In his poem "Oran Do Aonghas Og Morair Ghlinne Garaidg"(A Song to Angus Og Laird of Glengarry) he states the following:

B'ait leam Iarlachd Rìgh Fionnghall

A chluinntinn mar b'aill leam;

Bheirinn bliadhna dhe m'shaoghal.

'S gach ni dh'fhaodainn a tharsainn.

Chionn do choir a bhith sgriobhte.

Fo laimh an rìgh gun dad faillinn

(What would delight me would be to hear the title "Earl of the Hebrides" used as I should like. I would give a year of my life and everything I could acquire, in order that your right thereto should be put in writing, without or flaw under the King's hand).¹⁹⁰

In "Oran Do Mharcus Atholl"(A song to the Marquess of Atholl), praising Atholl's role against Argyll's rebellion in 1685, one stanza of the poem recounts all the titles belonging to the Marquess.¹⁹¹ In "Tuirneal a' Chuatain"(The Onset of a Cough) he says: "Nam biodh a' chuis mar a theirinn, Bhiodh tu 'd dhiuc air gach eilean"(If matters were as I would wish, you would be a duke over all the islands).¹⁹² The elevation to the peerage would certainly appeal to those who shared Ian Lom's vision of the Highland chief.

PARLIAMENT

A more active involvement in national politics during the period from c1550 to 1700 is reflected in the attendance of Highland chiefs at Parliaments and conventions of estates.

1550 to 1600

The Earl of Argyll and the Earl of Sutherland attended the Parliament in Edinburgh in November 1558. The Earl of Atholl was represented by a procurator.¹⁹³ Argyll and Sutherland also served on the Committee of the Articles. At this parliament only the Highland Earls attended because of their right as peers of the realm.

The Parliament of 1560, known as the Reformation Parliament, is perhaps not typical. Again the Highland Earls of Argyll, Sutherland and Atholl attended as did a number of chiefs: George Buchanan of that Ilk, William Murray of Tullibardine, Colin Campbell of Glenorchy, William Innes of that Ilk, Sutherland of Duffus, John Grant of Freuchy, Robert Munro of Foulis, Stewart of Grandtully, John Stewart of Arntully and James Menzies of that Ilk.¹⁹⁴ This group of chiefs must have been actively involved in Protestantism and willing to enter the arena of national politics. It is noticeable that they are all from areas of the south and eastern Highlands.

The representation of the Highland elite at the rest of the Parliaments before 1600 returns to the pattern of the 1558 Parliament being mostly confined to those chiefs who were members of the Peerage. There were a few exceptions, however. Murray of Tullibardine attended in 1567 and 1571 in his position of "rotulator" and was present on the Committee of the Articles in 1592, 1593 and 1596. He also attended the Convention of Estates of 1598.¹⁹⁵ Colin Campbell of Glenorchy attended in 1571 and Sir Duncan Campbell of Glenorchy in 1592 and 1593.¹⁹⁶ John Campbell of Cawdor, Robert Munro of Foulis and Lachlan MacIntosh of Dunnachton attended in 1572.¹⁹⁷ MacKenzie of Kintail was present at the Convention of Estates of 1598¹⁹⁸ and the Tutor of Cromarty was on the Articles in 1600.¹⁹⁹

1600 to 1650

Attendance at Parliaments included chiefs who were peers of the realm with the addition of MacKenzie of Kintail; Kenneth MacKenzie of Kintail was created Lord Kintail in 1609 and his son Earl of Seaforth in 1623. These years also witnessed a more structured representation from the barons beginning in 1608 with MacAulay of

Ardincaple for Dumbarton and the Tutor of Cromarty for Aberdeen.²⁰⁰ Thereafter there was a greater amount of representation from this group. For example in the Parliament of 1617 Highland representation included the Earls of Argyll and Tullibardine, Lord Kintail, the Stewart of Grandtully as one of the representatives for Perth, John Gordon of Buckie and George Munro of Terral for Inverness and Thomas Urquhart of Cromarty for Cromarty. The burghs of Inverness and Tain also sent representatives; James Cuthbert and Robert Munro respectively.²⁰¹ A similar pattern is found at the Parliaments in Edinburgh in 1639 and 1640.²⁰²

1650 to 1700

The Highland elite attended the Restoration Parliament on 1 January 1661 in larger numbers than any previous Parliaments. Those attending included the Earls of Sutherland, Atholl, Tullibardine, Seaforth and Lords Rae and MacDonnell. For the barons: Sir Thomas Urquhart of Cromarty, Colin MacKenzie of Redcastle, Sir Hugh Campbell of Cawdor, John Grant of Moynes, Campbell of Ardchattan, Robert Gordon of Lumsdeall, Sir Robert Gordon of Embo, Thomas MacKenzie of Pluscarden, Sir Robert Innes of that Ilk, Sir George MacKenzie of Tarbat and Sir George Munro of Newmore.²⁰³ This reflected the political situation at the Restoration. The Highland elite attended the other Parliaments in the later 17th century in similar numbers.²⁰⁴

Highland elite involvement in Parliament increased in the period from c1550 to 1661. With the exception of the Reformation Parliament of 1560 the period from 1550 to 1600 saw involvement limited to Highland peers and a few other chiefs. The period from 1600 to 1650 saw an increased level of representation reflecting the closer relationship between some Highland kindreds and the institutions of central

government and the political realities of a more powerful state. The Restoration Parliament of 1661 set the tone for the rest of the 17th century with a greater degree of involvement by the Highland elite.

CONCLUSIONS

This chapter has provided a profile of the Highland chiefs during the period from c1550 to 1700. Highland chiefs were first defined as those individuals who held the majority of their lands in the Gaidhealtachd or who were the head of a significant kindred in the Gaidhealtachd. Highland society and Highland chiefship were briefly examined to set the chiefs in their social context and reveal how this was changing during our period.

For the purposes of this study which focuses on the relationship between chiefs and lawyers, and is therefore concerned with the interaction between an elite and the state, two other aspects of the history of the Highland elite have been highlighted as a means of introduction. Firstly the cultural environment in which chiefs were brought up and secondly the developing relationship between central power and Highland elite.

A broad definition of culture has been employed. The institution of fosterage was considered to be of major importance in preserving Gaelic culture and was shown to be functioning in the later 16th century but on the wane during the 17th century, especially amongst the major Highland kindreds. The education of the chiefs' sons was then considered: many chiefs were shown to be literate in Scots and to have experienced some form of education by the later 16th century. Some chiefs went on to University and some spent time on the Continent. By the end of the 17th century the

clan gentry were literate and receiving an education. Most chiefs were bilingual by the later 16th century but Gaelic was not spoken as a first language by some of the most powerful chiefs in the 17th century. Attempts were made to teach these chiefs the language. Most of the Highland chiefs were considered to be bilingual by the later 17th century.

Anglicisation was also considered but was found to be of little importance before 1650. After this date there is more evidence of anglicisation as more chiefs married into the English landowning class and some began to employ English servants.

The traditional Highland leisure activities associated with a rural society continued throughout the period but other activities such as golf, tennis and bowls were introduced under the closer influence of Lowland society.

Chiefs spent time at the Scottish Court before 1603 and travelled to London to the English Court after 1603. They were actively engaged in securing Honours from the links they established with the monarchy. A broader commitment to national politics can be discerned by an increasing profile in the Scottish Parliament.

The period from c1550 to 1700 was therefore one of major social and cultural change for the Highland chiefs and alongside this was a changing balance in the relationship between the chiefs and the Crown and central government.²⁰⁵ The relationship between chiefs and the legal profession should be set against this background.

- ¹ APS, iii, 465.
- ² Ibid., iii, 466-7.
- ³ RPC, third, i, 55-6.
- ⁴ See Appendices I and II, 262-7.
- ⁵ C.W.J. Withers, "The Highland Parishes in 1698: An Examination of Sources for the Definition of the Gaidhealtachd", *Scottish Studies*, xxiv, (1980), 63-88.
- ⁶ See Appendix III, 269-70.
- ⁷ MacInnes, *Clanship*, 2-8, James A. Stewart, Jr., *The Clan Ranald: History of a Highland Kindred*, (University of Edinburgh, PhD 1982), 196-233.
- ⁸ O' Baoill, *Eachann Bacach*, 7, 41.
- ⁹ See in particular R.W. Munro, "The Clan System-Fact or Fiction?" *The Middle Ages in the Highlands*, Inverness Field Club, (Inverness, 1981), 117-129, David Stevenson, *Alasdair MacColla and the Highland Problem in the Seventeenth Century*, (Edinburgh 1980), 6-33, A.G. MacPherson, "An Old Highland Genealogy", *Scottish Studies*, I, (1966), 1-23, E.J. Cowan, "Clanship, kinship and the Campbell acquisition of Islay, *SHR*, lviii, (1979), 132-57, and "Fishers in Drumlie Waters: Clanship and Campbell Expansion in the time of Gilleasbuig Gruamach", *TGSI*, liv, (1984-6), 269-312, B.P. Lenman, *The Jacobite Clans of the Great Glen, 1650-1784*, (London, 1984), Chapter 1, R. A. Dodgshon, " 'Pretense of Blude' and 'Place of thair duelling': The Nature of Scottish Clans 1500-1745" in (eds.) R.A.Houston and I.D. Whyte, *Scottish Society 1500-1800*, (Cambridge, 1989), 169-97, Allan I. MacInnes, *Clanship*, 1-29.
- ¹⁰ Some recent detailed surveys include Cowan, *Fishers in Drumlie Waters*, MacPherson, *Highland Genealogy*, MacGregor, *Political History* and James A. Stewart, Jr., *The Clan Ranald: History of a Highland Kindred*, (University of Edinburgh PhD, 1982) for the Campbells, MacPhersons, MacGregors and MacDonalds of Clanranald.
- ¹¹ Stevenson, *Alasdair MacColla*, 12-14.
- ¹² Ibid., 14.
- ¹³ MacInnes, *Clanship*, 24.
- ¹⁴ Stewart, *The Clan Ranald*, 196.
- ¹⁵ *Infra*, 108-135.
- ¹⁶ Alan I. MacInnes, "The Impact of the Civil Wars and Interregnum: Political Disruption and Social Change within Scottish Gaeldom", in (eds.) Rosalind Mitchison and Peter Roebuck, *Economy and Society in Scotland and Ireland 1500-1939*, (Edinburgh, 1988), 65.
- ¹⁷ *Infra*, 172-3.
- ¹⁸ *Infra*, 92-9.

- ¹⁹ Edward J. Cowan, *Montrose, For Covenant and King*, (London, 1977), 278, for a younger brother of Sir Lachlan MacLean of Duart who became a successful merchant in Sweden.
- ²⁰ John Bannerman, *The Beatons: a medical kindred in the classical Gaelic tradition*, (1986), 120.
- ²¹ Jane Dawson, "The Fifth Earl of Argyle, Gaelic Lordship and Political Power in 16th Century Scotland", lxxvii, (1988), *SHR*, 3.
- ²² *Ibid.*, 3.
- ²³ William F. Skene, *Celtic Scotland*, (Edinburgh, 1890), iii, 429, 434.
- ²⁴ *Ibid.*, 439.
- ²⁵ MacGibbon and Ross, *The Castellated and Domestic Architecture of Scotland*, ii-iv.
- ²⁶ *Infra*, 217-248.
- ²⁷ *Taymouth Bk.*, 354.
- ²⁸ *Ibid.*, 376-9.
- ²⁹ MacGregor, *Political History*, 200-65.
- ³⁰ *Ibid.*, 247.
- ³¹ *Highland Papers*, ii, 48.
- ³² Derick S. Thomson, "Gaelic Learned Orders and Literati in Medieval Scotland", *Scottish Studies*, xii, (1968).
- ³³ John Bannerman, *The Beatons: a medical kindred in the classical Gaelic tradition*, (1986).
- ³⁴ *Ibid.*, 120.
- ³⁵ See for example MacInnes, *Clanship*, 13-14, *Celtic Scotland*, 62-7.
- ³⁶ *Taymouth Bk.*, 228-30.
- ³⁷ SRO Bread. Muns., GD 112/1/221.
- ³⁸ *Taymouth Bk.*, 223-4.
- ³⁹ SRO Bread. Muns., GD 112/24/4/2.
- ⁴⁰ *Taymouth Bk.*, 228-30.
- ⁴¹ SRO Bread. Muns., GD 112/39/64/16
- ⁴² See for example, *Lamont Papers*, 122, *Book of Dunvegan*, i, 120-1, *Coll de Rebus Alban.*, 19, 20-1.
- ⁴³ *Celtic Law*, 222-225.
- ⁴⁴ Gordon, *Earldom of Sutherland*, 345.
- ⁴⁵ *Ibid.*, 374.
- ⁴⁶ *Ibid.*, 314.
- ⁴⁷ SRO Bread. Muns., GD 112/39/42/4.

- ⁴⁸ Gordon, *Earldom of Sutherland*, 149.
- ⁴⁹ *Supra*, 27.
- ⁵⁰ Gordon, *Earldom of Sutherland*, 461, 463.
- ⁵¹ *Coll. de Rebus Alban.*, 20-1.
- ⁵² *Infra*, 174-194.
- ⁵³ Sir Aeneas MacPherson, *The Loyal Dissuasive*, 4.
- ⁵⁴ This is considered to be important in coming to an explanation of the movement of many Highlanders, including many from the families of the Highland elite, into the legal profession in the course of the 17th century. See Chapters 2, 3 and 6 for a detailed discussion of this movement.
- ⁵⁵ *Chron. Frasers*, 141.
- ⁵⁶ *Ibid.*, 147.
- ⁵⁷ *Taymouth Bk.*, 324.
- ⁵⁸ *Highland Papers*, ii, 269.
- ⁵⁹ Gordon, *History of Sutherland*, 314.
- ⁶⁰ *Memoirs of Sir Ewen Cameron of Locheil*, Maitland Club, (Edinburgh, 1842), 37
- ⁶¹ *Chron. Frasers*, 192-3. According to Mr James Fraser he fell in with a bad crowd, ran off to Atholl and then to Ireland in July 1586 when he was 16 years old, enraging the Tutor of Lovat.
- ⁶² Gordon, *Earldom of Sutherland*, 239-40.
- ⁶³ *Munro Writs*, no. 84.
- ⁶⁴ D.D.Menzies, *The 'Red and White' Book of Menzies*, (Glasgow, 1894), 229.
- ⁶⁵ *Old Ross-shire*, i, 58.
- ⁶⁶ *A Genealogical Deduction of the Family of Rose of Kilravock*, Spalding Club, (Edinburgh, 1848), 68.
- ⁶⁷ John Bannerman, "Literacy in the Highlands", in *The Renaissance and Reformation in Scotland*, eds. Ian B.Cowan and Duncan Shaw, (Edinburgh, 1983), 215.
- ⁶⁸ *Ibid.*, 216.
- ⁶⁹ *RPC*, first, i, 654.
- ⁷⁰ Bannerman, *Literacy in the Highlands*, 229.
- ⁷¹ *Ibid.*, 231.
- ⁷² *Ibid.*, 231.
- ⁷³ *Ibid.*, 224.
- ⁷⁴ *The MacKintosh Muniments*, no. 200, no.205.
- ⁷⁵ *Ibid.*, no.243.
- ⁷⁶ *Cawdor Bk.*, 249-50.

- 77 Gordon, *Earldom of Sutherland*, 362.
- 78 Ian Grimble, *Chief of MacKay*, (London, 1965), 94-5.
- 79 *Memoirs of Sir Ewen Cameron of Locheill*, Maitland Club, (Edinburgh, 1842), 67-8.
- 80 SRO Bread. Mums., GD 112/39/46/2, 112/39/46/22, 112/39/50/34.
- 81 *Ibid.*, GD 112/39/60/2.
- 82 SRO Bread. Muns., GD 112/28/20/19.
- 83 *Chron. Frasers*, 349.
- 84 *Ibid.*, 395-6.
- 85 RPC, first, ix, 28-9.
- 86 *Highland Papers*, iii, 241-4.
- 87 *Book of Dunvegan*, i, 184, 217, 218.
- 88 *Ibid.*, 225.
- 89 *Highland Papers*, iii, 252-3.
- 90 *Chron. Frasers*, 237.
- 91 John Willcock, *The Great Marquess*, (Edinburgh, 1903), 12.
- 92 Gordon, *Earldom of Sutherland*, 389, 421.
- 93 RPC, second, v, 420.
- 94 A.M. MacKintosh, *The MacKintoshes and Clan Chattan*, (Edinburgh, 1903), 212.
- 95 Gordon, *Earldom of Sutherland*, 239-40.
- 96 MacKintosh, *The MacKintoshes*, 190.
- 97 Gordon, *Earldom of Sutherland*, 298.
- 98 John Willcock, *A Scots Earl in Covenanting Times*, (Edinburgh, 1907), 19.
- 99 RPC, first, vi, 402-4.
- 100 *Book of Dunvegan*, i, 48-9.
- 101 Fraser, *Cromartie*, i, 27-29.
- 102 *Ibid.*, 57-8.
- 103 *Ibid.*, 125-6.
- 104 SRO Clanranald Papers, GD 201/1/86.
- 105 RPC, third, vi, 403.
- 106 Paul Hopkins, *Glencoe and the End of the Highland War*, (Edinburgh, 1986), 26.
- 107 *Taymouth Bk.*, xx, and SRO Bread. Muns., GD 112/39/64/16.
- 108 Fraser, *Sutherland*, ii, 357.
- 109 *Ibid.*, 359.
- 110 *Scots Peerage*, vii, 508.

- 111 Alexander MacKenzie, *History of the MacKenzies*, (Inverness, 1894), 276.
- 112 Derick Thomson, *An Introduction to Gaelic Poetry*, (Edinburgh, 1989), 19-56, and the same author's "Gaelic Learned Orders and Literati in Medieval Scotland", Bannerman, "The Lordship of the Isles", in Jennifer M. Brown(ed.), *Scottish Society in the 15th Century*, (London, 1977), 232-8.
- 113 *Coll. de Rebus Alban.*, 27-8.
- 114 Monro, *Western Isles*, 50.
- 115 John, 7th Duke of Atholl(ed.), *Chronicles of the Atholl and Tullibardine Families*, (Edinburgh, 1908), i, 32-33.
- 116 *Ibid.*, 36-7.
- 117 *Ibid.*, 37.
- 118 Monro, *Western Isles*, 70.
- 119 *Ibid.*, 84.
- 120 SRO Commissary Court Records, CC 8/8/3, f 122.
- 121 *Chron. Frasers*, 143.
- 122 *Ibid.*, 221.
- 123 *Ibid.*, 165.
- 124 *Ibid.*, 247.
- 125 *Ibid.*, 257-8.
- 126 SRO Bread. Muns., GD 112/35/1/4.
- 127 Gordon, *Earldom of Sutherland*, 6.
- 128 Olive M. Geddes, *A Swing Through Time, Golf in Scotland 1457-1743*, (Edinburgh, 1992), 9-16.
- 129 Archibald late Marquis of Argyll, *Instructions to a Son*, (Edinburgh, 1661), 104-5.
- 130 *Taymouth Bk.*, vi.
- 131 *Infra*, 149.
- 132 Fraser, *Sutherland*, ii, 120.
- 133 SRO Bread. Muns., GD 112/ 29/10/15
- 134 MacKenzie, *Orain Iain Luim*, 17.
- 135 *Ibid.*, 19.
- 136 *Ibid.*, 49.
- 137 *Ibid.*, 133.
- 138 O'Baoill, *Eachann Bacach*, 75.
- 139 *Chron. Frasers*, 416.
- 140 *Ibid.*, 447.
- 141 SRO Bread. Muns., GD 112/ 3/72/4.

- 142 Ibid., GD 112/10/1/2/32.
- 143 Rosalind K. Marshall, *The Days of Duchess Anne*, (London, 1973), 51, and Fraser, *Wemyss*, iii, 102-3.
- 144 *Letters from Archibald, Earl of Argyll, to John, Duke of Lauderdale*, Bannatyne Club, (Edinburgh, 1829), 79-81.
- 145 *Old Ross-shire*, i, 175.
- 146 Cawdor Bk., 352-3.
- 147 John 7th Duke of Atholl, *Chronicles of the Atholl and Tullibardine Families*, (Edinburgh, 1908), i, 264-5.
- 148 SRO Bread. Muns., GD 112/43/21/16.
- 149 *Scots Peerage*.
- 150 *Infra*, 108-135.
- 151 *Infra*, 124.
- 152 Argyll, *Instructions to a Son*, 81.
- 153 RPC, first, i, 312.
- 154 *Chron. Frasers*, 159.
- 155 Gordon, *Earldom of Sutherland*, 196.
- 156 *Miscellany of the Spalding Club*, (Aberdeen, 1846), iii, 215.
- 157 *Infra*, 65-107.
- 158 Gordon, *Earldom of Sutherland*, 255.
- 159 Ibid., 395.
- 160 Ibid., 320.
- 161 Ibid., 335.
- 162 Fraser, *Sutherland*, ii, 344.
- 163 *The MacKintosh Muniments*, no.288.
- 164 A.M.MacKintosh, *The MacKintoshes and Clan Chattan*, (Edinburgh, 1903), 194.
- 165 *Highland Papers*, i, 113.
- 166 Fraser, *Grandtully*, i, 107-8.
- 167 Edward J.Cowan, *Montrose, For King and Covenant*, (London, 1977), 271.
- 168 *Book of Dunvegan*, i, 140-1.
- 169 *Taymouth Bk.*, 37.
- 170 Ibid., 68-9.
- 171 Fraser, *Grant*, ii, 55.
- 172 Ibid., 57.
- 173 *Cawdor Bk.*, 252-3.

- 174 *Infra*, 151.
- 175 Fraser, *Maxwell Inventories*, i, 325-334.
- 176 SRO Bread. Muns., GD 112/39/182/14.
- 177 Sir Aeneas MacPherson, *The Loyall Dissuasive*, (Edinburgh, 1902), 144.
- 178 *Ibid.*, 9.
- 179 *Ibid.*, 150.
- 180 MacKenzie, *Orain Iain Luim*, 90- 1.
- 181 *Ibid.*, 124-5.
- 182 O'Baoill, *Eachann Bacach*, 51.
- 183 J. Carmichael Watson, *Gaelic Songs of Mary MacLeod*, Scottish Gaelic Texts Society, (Edinburgh, 1965), 52-3.
- 184 *Coll. de Rebus Alban.*, 25.
- 185 Charles Rogers, *Estimate of the Scottish Nobility*, (London, 1873), 77-79.
- 186 *Ibid.* 78-79.
- 187 Fraser, *Sutherland*, ii, 115-16.
- 188 RPC, first, iii-xiii.
- 189 *Complete Baronetage*, ii, 1625-1649.
- 190 MacKenzie, *Orain Iain Luim*, 98-9.
- 191 *Ibid.*, 177.
- 192 *Ibid.*, 180-1.
- 193 APS, ii, 503-4.
- 194 *Ibid.*, ii, 525-6.
- 195 *Ibid.*, iii, 3-4, 527, iv, 7-8, 97, 158.
- 196 *Ibid.*, iii, 65, 527, iv, 7-8.
- 197 *Ibid.*, iii, 77.
- 198 *Ibid.*, iv, 158.
- 199 *Ibid.*, iv, 191.
- 200 *Ibid.*, iv, 403.
- 201 *Ibid.*, iv, 525-6.
- 202 *Ibid.*, v, 251-2, 258-9.
- 203 *Ibid.*, vii, 3-5.
- 204 *Ibid.*, vii, 368-70, 446-7, 548-50, viii, 3-5, 55-7, 208-10, 231-33, 451-53. 576-78.
- 205 The period was also one of significant religious and economic change for the chiefs. For a discussion of this see MacInnes, *Clanship*, 76-81, 142-148.

CHAPTER 2: THE RELATIONSHIP BETWEEN HIGHLAND CHIEFS AND THE EDINBURGH LEGAL PROFESSION C1550 TO 1700

The relationship between Highland chiefs and the Edinburgh legal profession has received some attention from historians. Alan I. MacInnes briefly mentions the subject in his article "Repression and Conciliation: The Highland Dimension 1660-1688" and in "Clanship, Commerce and the House of Stuart".¹ Two studies by Jean Munro are concerned with the MacKenzies of Delvine, a legal dynasty from the late 17th and 18th centuries² and Alick Morrison has also written two studies of MacLeod Lawyers in the later 17th century.³ Munro and Morrison's approach to the topic is genealogical rather than analytical. No comprehensive analysis of this relationship in the early modern period has been attempted. This is not surprising since the Scottish legal profession at this time has been under-studied and it is an area which has received little attention from European historians. Wilfrid Prest in "Lawyers in Early Modern Europe and America" has stated that "the most serious current deficiency is our general ignorance about the interaction between lawyers and their clients" and she continues "there is an urgent need for more work....to discover exactly who used lawyers' services in early modern times and for what sorts of purposes".⁴

The chapter aims to analyse the relationship between Highland Chiefs and Edinburgh Lawyers in the period from c1550-1700 and is principally concerned with establishing that relations existed between the chiefs of various kindreds and Edinburgh lawyers and how the nature of this relationship changed in the period from c1550 to 1700. Many of the sources for this relationship also reveal the purposes for which lawyers were employed and so from a description of the relationship a picture of its functional aspects can also be built up. Other aspects of this relationship such as legal costs and

fees, and moneylending by lawyers will be examined in more detail in another chapter.⁵

This chapter is concerned only with lawyers who practised in Edinburgh as members of the legal profession. Chiefs were sometimes represented in the Privy Council by their sons, close kinsmen, local landowners or by personal servitors who were not members of the legal profession but who made intermittent journeys to Edinburgh to plead for the chiefs. This appears to have been relatively common in the late 16th and early 17th century and represents a period when the chief/lawyer relationship was less advanced.⁶

THE RELATIONSHIP BEFORE 1550

The period before c1550 witnessed change and transition in the development of a legal profession in Scotland. Robertson has stated that "the professional practice of law appears to have become well established in 15th century Scotland"⁷ while Donaldson in a seminal article on the Scottish legal profession of the 16th and 17th centuries declares that "the early 16th century saw changes in Bench and Bar alike, and it is to that period that I would assign the real emergence of a legal profession".⁸ The law and legal profession require more detailed study in the 15th and early 16th century but it seems clear that this was a period of transition associated with institutional development which culminated in the establishment of the College of Justice in 1532.⁹

Most of the evidence for the relationship with lawyers in this period comes from the printed records of the parliamentary committees dealing with civil and criminal justice. The " Acta Dominorum Concilii 1496-1501 " and "Acta Dominorum Concilii 26

March 1501-27 January 1502-3" reveal that at this time chiefs who were involved in a case before these institutions either appeared personally or were represented by a procurator. In an action raised by Colin Earl of Argyll and Umphra Colquhoun of Luss against Thomas Simpson sheriff of Fife concerning malpractice in serving a breve of inquest in the early 1480s both parties appeared personally¹⁰ as did the parties in Hugh Lord Fraser of Lovat against *Dowle McGilliechallum* of 27 January 1498 and in Huchone Rose of Kilravock against William Thane of Cawdor of 8 February 1498.¹¹ Procurators represented chiefs in other cases before the Lords of Council. On 10 February 1498 Rose of Kilravock nominated David Balfour of Caraldstone, John Cheyne of Essilmont and William the Ross as his procurators in his action against the Thane of Cawdor.¹² On 26 February of the same year in a case against him by Dunbar of Durris, Lord Fraser of Lovat was "comperand be his procuratouris" while on 12 May William Munro of Foulis was represented by his procurator Mr John Munro in a case of spulzie against Auchinroy MacKenzie and others.¹³ It is somewhat unclear who these late 15th and early 16th century procurators were; they seem to have been either churchmen, kinsmen or neighbouring lairds. It would be difficult to describe them as members of a distinct legal profession and Donaldson indicates that many of the names of procurators appear only once and others only a few enough times, suggesting they could not be making a living.¹⁴ Since we cannot yet speak of a distinct Edinburgh legal profession it must be concluded that there was no relationship between Highland chiefs and Edinburgh lawyers in the later 15th and early 16th century. Some of the chiefs were, however, making use of the central institutions of justice in Edinburgh to solve some of their disputes and this must be seen as significant since as the embryonic legal profession took shape they would be in a position to seek employment from members of the Highland elite.

Selected cases from the Court of Session have been printed from the period of the court's inception in May 1532 to 5 July 1533.¹⁵ The cases reveal that members of the Highland elite were using the court, and as a result, were employing the services of the small group of advocates who worked there. On 22 March 1533 a case involved caution by Colin Campbell of Ardkinglass that Patrick Campbell would not disturb the peace when released from Dumbarton castle¹⁶ and on 27 March Sir Robert Menzies of that Ilk raised an action against the Earl of Atholl.¹⁷ On 12 March 1533 Hector MacLean of Duart raised an action against his kinsman John MacLean of Lochbuy¹⁸ for theft of cattle to the value of £3000 and the murder of a number of his men, indicating that an Island chief was using the Court of Session and apparently employing Edinburgh advocates at this time. These printed records do not reveal, however, the names of any of the advocates who were representing the chiefs.

There are some other pieces of evidence concerning the relationship between chiefs and Edinburgh lawyers in the period before 1550. The Edinburgh advocates Mr Hugh Rigg and Mr Thomas Marjoribanks acted as procurators for John Lamont of Inverryn before the Privy Council on 16 August 1546¹⁹ and an obligation of 1548 by Colin Campbell of Cranycht to John Campbell of Glenorchy, his brother, authorised the advocates Mr James MacGill and the above Mr Thomas Marjoribanks to register it in the Books of Council and Session.²⁰ There is also considerable evidence that the chiefs of various Campbell kindreds were taking cases to the Court of Session in the period from 1532 to 1550, and as a result, employing advocates to plead for them.²¹

Members of the Highland elite were therefore taking cases to the central legal institutions before the establishment of the College of Justice in 1532. It seems, however, that in the later 15th century or early 16th century they either appeared before the courts personally or employed someone as their procurator although these

procurators cannot be described as members of a distinct Edinburgh legal profession. In the period between 1532 and 1550 chiefs were employing the services of advocates to plead for them in the Court of Session and so it is to these years that we must ascribe the origins of the relationship between chiefs and the Edinburgh legal profession. A detailed study of the manuscript sources of the Court of Session between the years 1532 and 1550 would indicate which particular advocates were being employed and what sections of the Highland elite and Highland society were actively using the central civil court. Such an analysis is outside the scope of this study. It is significant, however, that the relationship can be traced to before 1550, revealing that chiefs were engaged with the institutions of the central government at this time.

1550-1600

In this section the evidence for the relationship between Highland chiefs and Edinburgh lawyers will be comprehensively surveyed for the period from 1550 to 1600 in order to establish that relations did exist with Edinburgh lawyers and what the nature of this relationship was. There is far less primary source material for this period than is available for the 17th century but there is certainly enough to make a study of the subject worthwhile. The major sources that have been used are the records of the central courts and the family muniments of Highland families. The evidence for the relationship is most often an explicit statement linking a particular chief with his named lawyer. Further evidence can be gleaned from the records of court cases that do not mention the lawyer. It can be assumed that if a chief is raising an action at the Court of Session then he will have to be represented by an advocate, implying the employment of that advocate by the chief. Cases in the Court of Session raised against chiefs do not

necessarily imply such a relationship since some chiefs failed to appear at court and had therefore presumably not arranged for any representation by a lawyer.

The relationship between Highland chiefs and senators of the College of Justice, the elite of the Edinburgh legal profession, will first be considered. James Fraser, the author of the Wardlaw MS, a genealogical history of the Frasers of Lovat written in the later 17th century, informs us that Lord Hugh Fraser of Lovat travelled to Edinburgh in 1569 where he attempted to build up a close relationship with some members of the College of Justice, presumably in an attempt to influence the outcome of his cases before the Court of Session.²² On 1 October 1583 John Grant of Freuchy wrote to the Lord Clerk Register Sir Alexander Hay about one of his legal cases stating: "thairfor man craif your lordschipis guid will and fartherance, in this my honest caus, quhairin I doubt nocht bot your lordschip will prefer me to utheris that ar nocht so tendir of bluid to your lordschip".²³ Grant hoped that since he was related to Hay his action before the Court of Session might be settled in his favour. In the same letter he continued: "(I) can nocht be forzetfull to gif your lordschip maist hartlie thankis for the guid will and favour schawin be your lordschip in my causis in the Session, lykas in tyme cuming I luik for your lordschipis favour and fotherance in sic causis as I happin to haif to do".²⁴ This is also evidence that Grant of Freuchy was making active use of this central court in the later 16th century and so employing advocates.

A similar spirit is revealed in a letter of 13 May 1584 from the Earl of Argyll to Sir Patrick Waus of Barnbarroch, another Senator of the College of Justice. In the letter Argyll asks Sir Patrick to intervene in the administration of the Court of Session to make sure that the Earl's cases before the court are quickly dealt with and that the decisions are made in his favour.²⁵ There are other examples of such pressure being applied to Sir Patrick Waus by other Scottish noblemen at this time²⁶ and as Wormald

states, the letters "give the strong impression that these attempts to influence judges and the courts were accepted as a familiar feature of society".²⁷ This small quantity of surviving evidence indicates that links existed between some Highland chiefs and senators of the College of Justice in the period from 1550 to 1600 and that individuals such as Grant of Freuchy and the Earl of Argyll were pursuing cases through the Court of Session.

The relationship between Highland chiefs and Edinburgh advocates and writers will now be considered. Relations with Highland Earls will be examined first. On 28 February 1576 Mr Thomas Craig advocate acted as a procurator for Colin 6th Earl of Argyll before the Privy Council in a case against John Earl of Atholl. On 22 July of the same year Craig registered a bond of caution by the Earl of Argyll in the Privy Council Register.²⁸ In 1598 Archibald 7th Earl of Argyll was represented in the Justiciary Court by the two advocates Mr William Oliphant and Mr John Scharp.²⁹ We should not be surprised to find links between the Earls of Argyll and the legal profession during this period since the earls held the hereditary position of Justice General at this time and had always maintained close relations with the government.

On 17 May 1598 Mr Thomas Craig advocate registered a bond of caution for John Earl of Sutherland.³⁰ In his "Genealogical History of the Earldom of Sutherland", Sir Robert Gordon informs us that Alexander Earl of Sutherland went to Edinburgh where he pursued the Earl of Caithness before the Court of Session and that the "sute continued a long tyme, by reasone of the Earle of Southerland his powerfull and mightie enemies then in court and session".³¹ This would have involved the employment of Edinburgh advocates. On 12 October and 22 November 1569 and 8 March 1575 the Earl of Caithness was represented in front of the Privy Council by Mr Clement Littil advocate³² and in a case before the Court of Session on 20 January

1590 the Earl of Huntly was represented by the advocates Mr Thomas Craig and Mr Alexander King.³³

Mr John Scharp advocate appeared for the Earl of Atholl in front of the Privy Council on 28 February 1576.³⁴ In another case of 3 April 1576, raised against the Earl by James Menzies of that Ilk who was claiming exemption from the jurisdiction of the Earl's commission of Justiciary, the Earl was represented by Scharp, Mr Alexander Sym advocate and Mr Alexander Skene advocate.³⁵ On 2 February 1577 the Earl was represented in the same court by Scharp and Mr Alexander Mauchane advocate in a case raised by Cameron of Lochiel for wrongful imprisonment "in his place of the Blair of Atholl".³⁶ Mr Alexander Skene was present at Dunkeld, a residence of the Earl of Atholl, on 18 and 19 November 1573. He acted as one of the witnesses to the contract of marriage between Jean Stewart the daughter of John Earl of Atholl and Duncan Campbell son and heir of Colin Campbell of Glenorchy.³⁷ Skene may have been involved in providing advice about the details of the marriage arrangements. His presence in the Highlands indicates that the relationship between chief and Edinburgh lawyer did not only entail the employment of the lawyer in Edinburgh but could also involve the lawyer travelling into the Highlands. It is shown in another chapter that other Edinburgh lawyers in the 17th century were spending time with their clients in the Highlands and that these visits were for social and leisure purposes as well as business.³⁸ In the period from 1550-1600 there is considerable evidence that the Highland Earls were employing Edinburgh advocates to represent them in the Privy Council and the Court of Session.

The relationship with the rest of the Highland chiefs will now be considered. We have already seen the close relationship between Grant of Freuchy and the Clerk Register Sir Alexander Hay. The "Calendar of Entries in the Register of Acts and Decrees

1564-6"³⁹ reveals that on 18 December 1565 John Grant of Freuchy raised an action in the Court of Session against Alexander Gordon of Abroyeldye and James Crichton of Frendraucht for the spoliation of 96 cows in 1526.⁴⁰ Mr Thomas Harvy advocate appeared for Grant of Freuchy in front of the Privy Council on 5 March 1576⁴¹ and a contract of marriage between Grant and Lillias Murray was witnessed at Gask on 15 April 1591 by Mr Thomas Craig advocate and his brother Robert Craig.⁴² Again it seems that an Edinburgh lawyer was required to give legal advice on the details of the marriage agreement. On 15 June 1596 Mr James Donaldson advocate registered a bond of caution by John Grant of Freuchy in the Privy Council Register.⁴³ A bond of manrent of 28 April 1597 between Grant and Donald MacDonald of Glengarry, written with the "sicht and awyce off men off law", specified that differences between the two parties over particular lands were to be discussed by their representatives. Those nominated by Grant included the three advocates Mr Thomas Craig, Mr William Oliphant and Mr James Donaldson.⁴⁴

Evidence concerning the relationship with Ross-shire chiefs shows that on 4 May 1586 Colin MacKenzie of Kintail had an obligation registered in the Privy Council Register by Mr Thomas Craig,⁴⁵ who also appeared for MacKenzie in the Court of Session on 11 March 1542.⁴⁶ In a case before the Session on 20 January 1590 MacKenzie and his brother Rorie MacKenzie were represented by the advocate Mr John Moncreiff.⁴⁷ On 26 January 1590 Mr Hector Munro of Foulis arranged for the advocate Mr Umphra Bleinsheillis to register his band of caution with the Privy Council.⁴⁸ Robert Munro of Foulis and Mr Hector Munro of Foulis employed the Edinburgh writer John Munro as their legal agent in Edinburgh in the later 16th century.⁴⁹ Further evidence that a number of Ross-shire chiefs were travelling to Edinburgh to see their cases through the Court of Session, which involved the employment of advocates, is revealed in the following extract from the Privy Council Register. On 22 January 1597

the Privy Council allowed MacKenzie of Kilchrist more time to find caution in Edinburgh because "eftir the rying of the sessioun the haill cuntreymen of my acquaintace quhilk wer heir depairtit and past hame".⁵⁰ A group of Ross-shire chiefs had travelled to Edinburgh to follow their cases through the Court of Session but had departed for home making it difficult for MacKenzie to find someone in Edinburgh who was willing to act as his cautioner. It is also significant that a group of men from an outlying district such as Ross made the long journey to Edinburgh to use the Court of Session at this time to solve their legal problems.

In the south western Highlands there is also evidence of this relationship during this period. In 1553 a decret arbitral in a case raised by Sir John Lamont of Inveryn against Archibald Campbell of Auchinbreck and Lauchlan MacLauchlan of that Ilk stated that a decision had been reached "after long process and disputation before the Lords of Session betuixt the saids parties".⁵¹ The "Calendar of Entries" reveals that John Lamont of Inveryn was making active use of this central court again in 1565 with a case raised against Ninian Bannatyne of Cames on May 18 which was heard before the Court of Session on June 18, July 17 and January 28 1566.⁵² Sir Duncan Campbell of Glenorchy employed the Edinburgh advocate Mr Oliver Colt during the later 16th century.⁵³ Sir Duncan also employed the services of Mr John Moncreiff advocate who presented Sir Duncan's bond of caution for registration with the Privy Council on 6 March 1595.⁵⁴ Mr John Schairp advocate had acted as a procurator for Sir Duncan's father Colin Campbell of Glenorchy in front of the Privy Council on 3 November 1564 in a case raised against him by James Menzies of that Ilk for "wragus incursioun" on land belonging to Menzies.⁵⁵ We also find that Umphra Colquhoun of Luss was represented by Mr Thomas Craig before the same court on 14 November 1579⁵⁶ and in a case before the Court of Session on 11 February 1587 Archibald MacLauchlan of that Ilk was represented by the advocates Mr John Schairp and Mr

William Oliphant.⁵⁷ There is ample evidence to indicate that chiefs of the south western highlands were using the central courts and employing Edinburgh lawyers in the period from 1550 to 1600.

James Menzies of that Ilk appeared personally with his two procurators Mr David MacGill advocate and Mr Henry Kinross advocate before the Privy Council on 3 April 1576 in a case he had raised against the Earl of Atholl claiming exemption from the Earl's commission of Justiciary.⁵⁸ On 29 July 1576 an agreement between George Earl of Huntly and MacKay of Farr states that representatives nominated by MacKay include the advocate Mr Alexander Skene.⁵⁹ On 28 May 1595 Mr John Dempster advocate registered a bond of caution by MacIntosh of Dunnachton⁶⁰ and in the 1590s Campbell of Cawdor's legal affairs were managed in Edinburgh by the advocate Mr James Wardlaw.⁶¹ An item in Cawdor's travelling expenses for a journey to Edinburgh in 1591 included " your dischone in Mr James Wardlaw his chalmer twa dowsand pennie pyis....ii s".⁶²

There is also some evidence for the relationship between west highland chiefs and the Edinburgh legal profession. On 2 February 1577 Mr Thomas Craig appeared as the procurator for Allaster Dow Cameron of Locheil and his brother John Cameron in the Privy Council in a complaint by Cameron against wrongful arrest by the Earl of Atholl.⁶³ On 15 August 1588 and on 16 July 1589 bonds were registered in the Privy Council Register for Duncan MacDougall of Dunolly by the advocates Mr Oliver Colt and Mr Thomas Craig respectively.⁶⁴ In 1597 in the bond of manrent referred to above between Grant of Freuchy and Donald MacDonald of Glengarry, the group of representatives nominated by Glengarry included the three advocates Mr Alexander King, Mr Henry Balfour and Mr John Nicolson.⁶⁵ No evidence has been found to indicate a relationship between the Stewarts of Appin or the MacDonalds of Keppoch

and the Edinburgh legal profession between the years 1550 and 1600. This is not proof that such a relationship did not exist. An exhaustive study of the manuscript sources of the Court of Session would indicate if these kindreds were involved in cases going through this court and so if they were employing lawyers. The lack of evidence from the sources used in this study surely indicates that these kindreds did not maintain regular close contact with the legal profession and it may be the case that they did not employ lawyers at this time.

The relationship between Island chiefs and the Edinburgh legal profession will now be considered. On 3 January 1565 in a case involving disagreements within the MacLean kindred Hector MacLean of Duart appeared personally in front of the Privy Council together with his procurator the advocate Mr Alexander Mauchane⁶⁶ and in the same case Hector MacLean of Coll was represented by his son Hector MacLean and the advocate Mr Richard Strang. On 13 February and 4 May 1576 in a complaint against the Earl of Argyll for wrongfull imprisonment John MacLean, the son of the above Hector MacLean of Duart, appeared in the same court represented by Mr Thomas Harvy advocate⁶⁷ while on 10 April 1579 Hector MacLean of Coll raised a case against his chief Lachlan MacLean of Duart for forceably entering his castle on Coll, and was represented by Mr Thomas Craig.⁶⁸ A bond of caution was registered by Craig for Lauchlan MacLean of Duart on 14 July 1596.⁶⁹ Sufficient evidence exists to indicate that the MacLean chiefs had established links with the Edinburgh legal profession in the later 16th century and it has already been shown that they were using the Court of Session in 1532. There is not a great deal of evidence, however, linking other island chiefs with Edinburgh lawyers. In an obligation of 1573 by Roderick MacLeod of Lewis to John Campbell Bishop of the Isles it was stated that the deed was to be registered by the two Edinburgh advocates Mr Richard Strang and Mr Alexander Mauchane in the Books of Council and Session.⁷⁰ This may be an

indication, however, of the links between the Bishop of the Isles and his advocates. On 30 July 1578 Rorerick's son Torquill bound himself in front of the Privy Council in Stirling Castle to appear again before the Council under 40 days warning. Torquill could not write in Scots and so was led at the pen by the Edinburgh writer and notary public David Moysie.⁷¹ Again it is unclear whether Moysie was employed by the Privy Council or by Torquill MacLeod. No evidence has been found for the period from 1550 to 1600 linking other island chiefs such as MacDonald of Islay, MacDonald of Sleat or Clanranald with the Edinburgh legal profession.

The small Highland kindred the Robertsons of Lude were however employing Edinburgh lawyers at this time. At Dunkeld on 28 January 1581 John Robertson of Lude issued a procuratory, a document naming his procurators, appointing Mr Alexander Skene and Mr John Skene to appear for him before the Lords of Council and Session.⁷² It has already been shown that Mr Alexander Skene had a close relationship with the Earl of Atholl and so it may have been through Atholl that John Robertson of Lude was directed to employ Skene. It is significant, however, that by the 1580s a lesser Highland kindred were employing Edinburgh lawyers and making use of the Court of Session to resolve some of their disputes.

Having determined that many of the Highland and Island elite were employing Edinburgh lawyers in the period from 1550 to 1600 it is now necessary to examine in more detail the lawyers who represented them. It is noticeable that most of the lawyers who were employed by Highland chiefs at this time were advocates. The sources that have been studied reveal links with thirty-seven Edinburgh lawyers during the period: twenty-nine advocates, five writers, two agents and one notary public.⁷³ This reflects the dominance of the advocates within the legal profession in the later 16th century and the nature of legal work carried out by Edinburgh lawyers for Highland chiefs at

this time. Much of the work seems to have involved representation in a court as opposed to conveyancing work and this was the field in which the advocates specialised.

It has been shown that the social origins of Edinburgh advocates of the later 16th century were mostly from the "middling sort" or from smaller lairds⁷⁴ and, for example, advocates who worked for Highland chiefs included Thomas Craig the son of Robert Craig an Edinburgh burgess, Clement Little the son of Clement Little of Liberton, a small laird, and John Dempster son of Thomas Dempster of Muireisk advocate.⁷⁵ Where the geographical origins of the lawyers can be ascertained it can be seen that most have come from in or near Edinburgh. A couple, however, were born in areas fairly close to the Highlands. Mr Oliver Colt advocate was the eldest son of the Perth burgess Blaise Colt.⁷⁶ He was employed by Sir Duncan Campbell of Glenorchy who had a residence in the burgh of Perth.⁷⁷ The advocate Mr John Moncreiff also had origins in Perthshire being the third son of William Moncreiff apparent of that Ilk⁷⁸ and he also worked as a lawyer for the Campbells of Glenorchy as well as the MacKenzies of Kintail.⁷⁹ Local connections it seems could sometimes determine the client-lawyer relationship. It is also possible that Colt or Moncreiff may have had some knowledge of Gaelic since they both had origins in areas close to the Highlands where the two linguistic cultures met and where it may have been common for people to be bilingual. A knowledge of Gaelic would certainly have helped lawyers who were acting for Highland chiefs.

There were also three Edinburgh lawyers during this period who were themselves members of Highland kindreds. John Munro, the natural son of William Munro of Taychalt, became a Writer to the Signet in Edinburgh⁸⁰ and acted as a legal agent there for Robert Munro of Foulis and Mr Hector Munro of Foulis. It seems that he

trained as a notary public before pursuing a career as a writer in Edinburgh.⁸¹ On 28 September 1591 John Munro was given lands by his chief Mr Hector Munro in return for "his honest personal service in all causes and legal actions".⁸² His work as a legal agent involved activity both in Edinburgh and Ross-shire. For example on 27 November 1584 he was at Foulis to witness a tack by John Sydserff vicar to Robert Munro of Foulis and on 21 January 1593 he was in Tain where he appeared before the burgh court.⁸³ A letter of 20 May 1586 from Robert Munro of Foulis to William Douglas of Lochleven reveals that John Munro was involved in arranging for a bond of caution by Foulis to be presented to the Privy Council.⁸⁴ On 1 March 1588 a group of 400 individuals including John Munro were put to the horn by the Privy Council for disturbing the running of a bailie court in Ross. The Privy Council Register stated that this had been done in revenge for a decision that had gone against Andrew Munro of Newmoir in the bailie court.⁸⁵

John Buchanan, Writer to the Signet, was the brother of Patrick Buchanan of Treinanoche.⁸⁶ He seems to have trained as a notary public being described as a notary when he led the hand of Thomas Buchanan of Drummakill on a bond of caution registered with the Privy Council on 8 March 1591.⁸⁷ He was also a burgess of Dumbarton and acted as a procurator before the Privy Council on 28 April 1597 for members of the Buchanan kindred in a case concerning the slaughter of Duncan Buchanan.⁸⁸ An assignation by Michael Elphingston, brother of Robert Lord Elphingston, to Sir Duncan Campbell of Glenorchy in 1595 was written in "the butle of John Buchanan writter"⁸⁹ and on 22 June 1599 John Buchanan WS raised an action in the Court of Session against Mr Donald Campbell of Barbreck.⁹⁰

Thomas MacAulay WS was the son of Allan MacAulay merchant burgess of Edinburgh but he maintained close links with the MacAulay kindred in the Lennox.⁹¹

He trained under Peter Hewat WS and began work in the later 16th century although most of the evidence about him comes from the early 17th century. On 18 March 1617 Lady Luss was represented by Robert Wallace the servitor of Thomas MacAulay WS before the Privy Council in a complaint by her against the Earl of Argyll concerning the repayment of a debt⁹² and on 30 July 1622 Thomas MacAulay appeared for his chief, Walter MacAulay of Ardincaple, in front of the same court in a case against John Campbell for destroying wood.⁹³ In an instrument of sasine of 20 July 1622 following on a charter by the Duke of Lennox to Walter MacAulay then eldest son of Alexander MacAulay of Ardincaple, the tailzie stated that failing the main line the lands were to pass to Thomas MacAulay writer in Edinburgh and if his line failed to Aulay MacAulay in Stukidow and after him to James MacAulay goldsmith burgess of Edinburgh.⁹⁴ This is an interesting indication of how a Highland kindred maintained close links with kinsmen who were now based outside the locality of the kindred. It also reveals that Thomas MacAulay WS must have been a close kinsman of MacAulay of Ardincaple. In 1624 a letter from the Privy Council to the Duke of Lennox referred to a Thomas MacAulay who was described as clerk in the Lennox. It seems that this man was Thomas MacAulay WS and that his work as a lawyer involved both activity in Edinburgh and in the area of the Highlands where his kindred was based.

The Edinburgh legal profession was not therefore totally dominated by Lowland lawyers although most Highland kindreds relied on lawyers of Lowland origins to act for them in Edinburgh. It is noticeable that the three "Highland" lawyers discussed above were all Writers to the Signet and not advocates and that they were not from the Highland elite, the families of the chiefs, but from the ranks of the clan gentry. They also belonged to kindreds which were located in areas relatively close to the Lowlands where closer economic and social ties with lowland society may have created conditions favourable for individuals to enter the Edinburgh legal profession at

this time. The Buchanans and MacAulays inhabited areas in the Lennox which were close to Glasgow and not too long a journey from Edinburgh. The Munros were a kindred based in eastern Ross-shire which through its burghs had links with the rest of Scotland.

1600-1650

Sir Robert Gordon of Gordonston gave his nephew, John Earl of Sutherland, the following advice in a letter of c1620:

Retain still the best men of lawe and advocats in Edinburgh for your counsell. Have a good, diligent, skillful and faithfull agent still resident in Edinburgh, who shall be your pensioner, and shall advertise you from tyme to tyme of all occurrences there.⁹⁵

For the years between 1600 and 1650 there is evidence from the sources used in this study of relations between Highland chiefs and sixty-two Edinburgh lawyers.⁹⁶ This represents a substantial increase from the previous period 1550-1600 where there was evidence for thirty-seven lawyers. The absolute numbers are not of great significance. They could be added to by a more comprehensive search through court records and Highland family muniments than has been possible for this study. Since, however, the same sources have been used for both periods, the upwards trend is significant and it is suggested here that three factors are involved in causing this increase. Firstly there was an increase in the amount of legal work required by the chiefs. Secondly there was employment of lawyers by chiefs who had not sought legal services in the 16th century

and thirdly the increasing quantity of surviving source material. It would be tedious to recount the numerous pieces of evidence for the relationship between chiefs and Edinburgh lawyers during this period and the evidence is provided in Appendix V.⁹⁷ Instead a few kindreds will be studied in detail to explore the relationship more fully and then a number of individual lawyers will be examined.

A close relationship between the various chiefs of the Campbells of Glenorchy and Edinburgh lawyers can be demonstrated during this period. The family's legal affairs in the early 17th century were directed in Edinburgh by the advocate Mr David Primrose. In the 1630s a Campbell kinsman, Archibald Campbell the brother of Campbell of Lawers, acted as a permanent legal agent in the capital. The close personal and business relationship between Glenorchy chiefs and their Edinburgh lawyers is discussed fully in another chapter.⁹⁸

Enough evidence survives to allow us to view the relationship between Sir John Grant of Freuchy and his legal representatives in Edinburgh in some detail. In 1601 Alexander Falconer of Halkerton was acting as an agent in Edinburgh for Grant although it is uncertain for how long this relationship lasted.⁹⁹ In the years after this Grant of Freuchy's legal affairs were organised by two individuals. Firstly the advocate James Gibson who became a member of the Faculty of advocates on 6 February 1627 and was the brother of Patrick Gibson of Muldares. He had trained under Mr Henry Kinross advocate being named as his servitor in a gift by Alexander Bishop of Murray to him on 7 March 1618 of the escheat of Sir Lachlan MacIntosh of Dunnachton.¹⁰⁰ In a letter of c1623 Allan Cameron of Locheil complained to Sir John Grant of Freuchy about some of Gibson's work; according to Locheil he had failed to insert a description of specific crimes in a letter of horning. Locheil wanted Grant to write to

Gibson to get him to correct his mistake.¹⁰¹ On 26 and 28 January 1636 Gibson represented Sir John before the Privy Council.¹⁰²

Some of Gibson's letters to his client survive and they reveal interesting glimpses of the nature of the relationship between chief and lawyer and the kind of work being undertaken. In a letter from Edinburgh of June 3 1636 Gibson told Sir John the following: "Sir Thomas Hop is daylie crying upon me for his moneyis. I will humblie intreat your maistership for my awin moneyis".¹⁰³ Gibson was required to liaise with other lawyers in Edinburgh and pay them for their services on behalf of Grant. It seems that Grant was delaying the payment of the Lord Advocate's fees. In another letter of 14 June 1636 Gibson reported that he had delivered Grant's letter to the Lord Register who was of the opinion that Grant should return to Edinburgh¹⁰⁴ and in the same letter there was news about a neighbour of Grant: "McIntosche his advocates are dayle calling the caus aganes your worship". Conveyancing was now central to the business carried out for the chiefs in Edinburgh. Gibson complained that "I mervell your worship hes not send me the writis concerneing the lands of Mulben, for gif they cum not in tyme ye will tyne these landis, and I am blamles".¹⁰⁵

Gibson's letters to Grant give an indication of the various tasks required of a lawyer at this time; liasing with other lawyers, taking cases through the Court of Session and overseeing the details of conveyancing. Gibson also acted as a source of credit for Sir John Grant. The Edinburgh legal profession were an important source of credit for many members of the Highland elite at this time.¹⁰⁶ The testament of Sir John Grant of Freuchy of 31 March 1637 reveals that Gibson was owed 3550 merks in two bonds with two years of annualrent.¹⁰⁷ Gibson also worked for other Highland clients. On 1 October 1617 he represented the Laird of MacIntosh before the Privy Council and also on 29 July 1619 when MacIntosh was acting as a cautioner for six people

formerly called MacGregor.¹⁰⁸ On 23 February 1637 he appeared for Hugh Lord Fraser of Lovat before the same court.¹⁰⁹ We have already seen that he worked for Cameron of Locheil. It is significant that such a lawyer was employed by the chiefs of a number of different Highland kindreds. This must be an indication of the relatively good relations that existed between them in the early 17th century. It seems inconceivable that kindreds who were active rivals would have employed the same lawyer.

In the 1630s and 1640s the Grants of Freuchy also employed a man called John Hay as an agent in Edinburgh although it is not clear exactly who he was or whether he was a lawyer. In a letter of 1636 Hay advised Grant that he should travel to Edinburgh in order to explain what was happening in the affair of James Grant and Gilderoy to the Privy Council.¹¹⁰ In 1648 he was still working for the Grants of Freuchy and in a letter of 3 December of the same year he stated that he would "stryve to acquaint your honour with such weeklie intelligence as salbe current heir for the tyme".¹¹¹ As has been shown elsewhere the Edinburgh legal profession acted as a vitally important source of information and news for Highland chiefs.¹¹²

There is also enough surviving primary source material concerning the Campbells of Cawdor to allow us to construct a fairly detailed picture of the relationship between the Cawdor chiefs and the Edinburgh legal profession during this period. In the early years of the 17th century a close relationship was maintained with the advocate Mr John Rollock. In 1612 Sir John Campbell of Cawdor commissioned Rollock, who at the time was also working as the commissary of Dunblane, to visit Cawdor's brother-in-law Sir James MacDonald of Islay no doubt to enter into some negotiations about the future of Islay.¹¹³ In the same year Rollock and another of Cawdor's lawyers James Mowat received a redemption of a sum of money for Cawdor in the High kirk

of St. Giles in Edinburgh which was a common place for such redemptions to take place at this time.¹¹⁴ On 11 January 1616 Rollock represented Sir John Campbell of Cawdor before the Privy Council when Cawdor was accused of not producing certain men who he was responsible for before the court¹¹⁵ and on 9 December 1617 he was commissioned by Cawdor to sell plate in order to raise cash which was to be used to pay off some of Cawdor's debts.¹¹⁶ At this time Rollock was himself owed the substantial sum of 48,500 merks by Cawdor.¹¹⁷ Rollock was also made an auditor to examine the administration of Cawdor's lands when a plan of action was put into place by Cawdor and his kinsmen to reduce the large amount of debt hanging over the family.¹¹⁸ The example of Mr John Rollock therefore indicates the importance of a legal agent in political negotiations and in the organisation of the finances and debts of an Highland chief.

The other legal figure who was actively involved in the legal affairs of the Campbells of Cawdor during these years was the Edinburgh writer James Mowat. He was the son of Magnus Mowat of Balquolly and Isobel Hay¹¹⁹ and in 1608 he was given a joint commission as sheriff of Kincardineshire.¹²⁰ In 1617 he was working as the procurator fiscal of the commissariat of Aberdeen.¹²¹ An early reference to him in the sources is from 28 May 1591 when he represented the presbytery of Tain before the Privy Council.¹²² James Mowat's correspondence with Sir John Campbell of Cawdor survives from 1612 and a number of his letters are published in "The Book of the Thanes of Cawdor". In a letter of 18 March 1619 from Edinburgh Mowat assured Sir John of his abilities: "Have a cair of your awin turnis in the northe, and I sall sie nothing go wrong heir quhat I can mend".¹²³ Mowat's letters reveal the wide range of business carried out by an Edinburgh lawyer for a client during this period. For example Mowat was involved in negotiations with Mr Nathaniell about plans Cawdor had concerning the development of mines in Islay.¹²⁴ He also acted as a political

lobbyist for Cawdor making journeys to Court in England for audiences with James VI. On 18 September 1621 he wrote from Theibols: "I have spokin withe the King at Wodstock"¹²⁵ He lobbied figures in the government in Edinburgh on Cawdor's behalf: "I spoke with the Duck his grace in your w. particular at lenthe and delyverit your letter to his grace"¹²⁶ Mowat was also involved in the education of his client's children. In 1616 Mowat was arranging for cloth to be bought for Cawdor's son Duncan who was being educated in Edinburgh at this time.¹²⁷ On 24 August 1619 Mowat wrote to Sir John from Edinburgh stating that "Johne and Coleine lernis weill" and on 8 October of the same year that "the barnis learnis weill, I will enter thame to the College nixt oulk".¹²⁸ Other lawyers were also involved in this practice during the 17th century¹²⁹

Mowat was ambitious and eager to use the influence of his client to further his own career. On 8 October 1619 he wrote the following to Sir John Campbell of Cawdor:

My Lord Interteill is werie weill content that I be choissin be the frendis boithe writter and agent in all the Erl of Argyllis affairis, desyre all your awin freinds.... that no wryter be imployet in ther turnis bot me, and crave the barroun of Achylis helpe towardis me to be wryter in my Lord of Argyllis and his freindis affaires.¹³⁰

Further evidence relating to the Campbells of Cawdor reveals that they were employing the advocate Mr Rodger Mowatt in 1638; his pension was paid in kind for this year, two cows valued at £26 13s 4d.¹³¹ In 1639 the Edinburgh writer William Inglisch was paid £40 for "trying quher the lairdis trunke and chartor kist was and for finding thame out in Edr".¹³² This is an indication that communications between Campbell of Cawdor and his lawyers in Edinburgh had broken down somewhat at this time. The writer John Nicoll was being employed by the family in 1642.¹³³

Central government took a more direct line in formalising the relationship between Island chiefs and the Edinburgh legal profession during the period from 1600 to 1650. The subject has been discussed by Jean Munro in her article "When Island Chiefs came to Town".¹³⁴ Following government military intervention in the Western Isles in 1608-9 and the Statutes of Iona of 1609 Island chiefs were cited to appear before the Privy Council each year. It was hoped that in the future the chiefs would "follow their actionis againis utheris be the ordinair course of law".¹³⁵ The Privy Council informed James VI in 1614 that the chiefs had "nominate domicilis within the burghe of Edinburghe whairat they sall be chairged in all tyme cuming".¹³⁶ The "domicillis" alluded to belonged to members of the Edinburgh legal profession. The Island chiefs appeared before the Privy Council at Edinburgh on 3 August 1614 and declared that they were content that all citations against them in actions concerning them before the Privy Council, Court of Session or Court of Justiciary would be at the following houses: for Hector MacLean of Duart the houses of Mr Alexander King, advocate, and Alexander Cunningham, agent; for Donald Gorme MacDonald of Sleat, Mr Thomas Hope, advocate, and James Logie agent; for Sir Rory MacLeod of Dunvegan the said Mr Alexander King and the said Alexander Cunningham; for Lachlan MacKinnon of Strathordill Mr Robert Nairn advocate and Alexander Cunningham and for MacLean of Lochbuy Mr Thomas Maiver advocate and Alexander Cunningham.¹³⁷ On 30 June 1629 MacNeill of Barra was added to the number of island chiefs and he nominated the houses of Mr Rodger Mowat advocate and John McRannald.¹³⁸ These yearly citations before the Privy Council were uniformly unpopular amongst the island chiefs because of the expense they involved and the amount of time they took up but they continued until 1638.¹³⁹ In a letter from Glasgow in August 1622 Sir Rorie MacLeod of Dunvegan complained to James VI about the effects of these annual trips to Edinburgh:

In the Spring. I gett na planting and in Somer my housses lyis unrepairit.... and in regaird of the far distans of place fra the Counsell it haldis me yeirlic mekill of half ane yeir in the Laichland.¹⁴⁰

In her article Munro concludes that "the regular appointment by the chiefs of agents in Edinburgh may well have originated, and certainly was required, by the rules concerning these annual appearances before the Privy Council".¹⁴¹ We have seen however in the previous section that links did exist between some island chiefs and Edinburgh lawyers before 1600 and indeed in the preamble in the Privy Council Register about the nomination of agents by the island chiefs it was stated that there were no feuds amongst them at that time "bot that thay had some civile actionis, quhilkis thay wald persew and follow oute according to the course of law and justice".¹⁴² This suggests that they had cases before the Court of Session and that they were already employing advocates to plead for them. For some Island chiefs the nomination of lawyers and agents formalised a relationship which already existed while for chiefs like MacNeill of Barra and MacKinnon of Strathordle it may have had the effect of initiating the relationship. Nevertheless such central government action did have the effect of creating a communication structure between the Edinburgh legal profession and Island elite which made the relationship closer.

In the period from 1600 to 1650 there is evidence that the closer relations that were developing between Highland chiefs and Edinburgh lawyers gave rise to a group of Edinburgh lawyers who specialised in Highland and Island clients. Two of these individuals have already been discussed; the advocate James Gibson and the writer James Mowat. Other Edinburgh lawyers who either had a number of clients who were Highland chiefs or who exclusively specialised in Highland clients were James Logie, Alexander Cunningham, Rodger Mowat, John MacLey and John Nicoll.

James Logie was the son of Martin Logie who worked as a notary public in Inverness.¹⁴³ James served his apprenticeship with the advocate Mr John Moncreiff being described as his servitor in a case raised by the King's Advocate and Logie against Mr Donald Campbell of Barbreck on 6 June 1599.¹⁴⁴ He worked as a writer and agent in Edinburgh and was employed by a large number of clients who were members of the Highland elite. For example he appeared as a procurator in the Privy Council for the following chiefs between the years 1612 and 1636: Donald Gorme MacDonald of Sleat, the Captain of Clanranald, John Grant of Freuchy, Sir Rorie MacKenzie of Coigach and MacLean of Lochbuy.¹⁴⁵ He also represented a number of non-elite Highlanders in the Privy Council: the magistrates and community of the Chanonry of Ross, Donald Grant in Beaulie, Agnes Cumming, Mr Martin McIlvarie minister of Killean and Killenache, *Fleurance Neine Chalice VcEane* and *Agnus McEan Vic Dougall* servitor to Hector MacLean of Kinlochallin.¹⁴⁶ Donald Gorme MacDonald of Sleat nominated Logie's residence as one of the places where he might be cited as was discussed above.¹⁴⁷

We know that Logie was a Gaelic speaker since it is stated that he acted as one of the interpreters at the trial of Neil MacLeod, the natural son of Rorie MacLeod sometime of Lewis, on March 30 1613: "be the interpretatioun of Andro Monro, Duncane Cunninghame and James Logie, suorne to the trew interpretatioun of all that sald be ansuerit be the pannell".¹⁴⁸ He was also employed by Colin Earl of Seaforth; on 11 June 1628 he was present in London to witness a Factory by the Earl to Captain Hamilton for receiving foreigners and strangers to the privileges of the royal burgh of Stornoway.¹⁴⁹ Logie's ability to speak both Scots and Gaelic seems to have given him the opportunity to establish a broad client base in the Highlands. His wide client base

is an indication of improved relations between some of the Highland elite in the early 17th century.

The writer Alexander Cunningham was employed by Rorie MacLeod of Dunvegan, Hector MacLean of Duart and Duart's brother Lachlan MacLean.¹⁵⁰ Mr Rodger Mowat advocate numbered Donald MacDonald of Glengarry, MacNeill of Barra and Campbell of Cawdor amongst his clients.¹⁵¹ He also lent money to Sir Robert Campbell of Glenorchy, Sir John Campbell of Cawdor, Mungo Campbell of Lawers and James Lamont of that Ilk.¹⁵² The writer John MacLey's clients included MacLeod of Dunvegan and MacNeill of Barra¹⁵³ and the writer John Nicoll represented MacKinnon of Strathordle, MacLean of Coll, MacLean of Lochbuy and MacLeod of Dunvegan between 1624 and 1633.¹⁵⁴ Nicoll was linked through moneylending arrangements to a number of Campbell lairds including Archibald Campbell of Glencarradale, John Campbell younger of Cawdor and Sir Duncan Campbell of Auchinbreck.¹⁵⁵

The writer John MacLey was from the Highlands himself; he owned lands in Culcraigie in Ross.¹⁵⁶ He was also probably a Gaelic speaker who was able to use his bilingual skills in the field of the law. In the period from 1600 to 1650 there are other lawyers and trainee lawyers who were from the Highlands or who are very likely to have had Highland origins. This group includes Archibald Campbell the brother of the Laird of Lawers, Colin Campbell servitor to John Nicoll WS, Andrew Munro, David Munro writer, Aulay MacAulay writer, John MacDonald advocate, Hugh MacDougall another servitor of John Nicoll WS, John McRonnald, James Farquarson WS, John Ross, William Ross and Hugh Ross WS. A detailed discussion of the life and work of Archibald Campbell can be found in Chapter 4. This group of 13 lawyers represents a

substantial increase on the three lawyers who were shown to have Highland origins in the period 1550 to 1600.

It will be enlightening to examine the careers of a couple of these lawyers in more detail. John MacDonald worked as a writer and agent in Edinburgh before becoming a member of the Faculty of Advocates on 16 June 1642.¹⁵⁷ On 23 July 1622 he represented *John McConneil VcEane* and others before the Privy Council.¹⁵⁸ In 1629 MacNeill of Barra nominated him as one of his two agents in Edinburgh¹⁵⁹ and on 23 September 1635 he appeared for the Laird of Glengarry before the Privy Council.¹⁶⁰ He acted as an interpreter for *Torkill McRorie Keill* in the Justiciary Court on 13 March 1628.¹⁶¹ His exact geographical origins remain uncertain but the fact that he was a Gaelic speaker with the surname MacDonald and that he acted for MacDonald of Glengarry is suggestive that he was a member of a MacDonald kindred.

James Farquharson was the second son of Donald Farquharson of Castleton of Braemar and trained under Thomas Cramby before becoming a Writer to the Signet c1627.¹⁶² The Privy Council Register shows that in 1632 and 1633 he was acting as an agent for the Marquess of Huntly and in 1635 for his brother Donald Farquharson of Monaltrie.¹⁶³ The examples of John MacDonald and James Farquharson show that it was not just the large kindreds with traditionally close links with central government who were establishing relations through kinsmen with the Edinburgh legal profession. A small kindred like the Farquharsons and a traditional "conservative" kindred like the MacDonalds had individuals who were pursuing careers in Edinburgh in the law.

The period from 1600 to 1650 therefore provides considerably more evidence for the relationship between Highland chiefs and Edinburgh lawyers. It is noticeable that whereas in the period from 1550 to 1600 advocates appeared to dominate this

relationship; in the years from 1600 to 1650 there is a greater role for writers and Writers to the Signet. This reflected both the changing nature of the legal profession as well as the changing needs of the chiefs. The amount of business related to moneylending and conveyancing was expanding and it tended to be the writers who specialised in these areas of legal work. It is clear that by the early 17th century the chiefs required both advocates, whose focus was on court work, and writers who were involved in conveyancing and the production of other documentation. These years also saw the rise of a group of lawyers who specialised in Highland clients some of whom were able to use bilingual skills and the expansion of the number of lawyers of Highland origins who were able to act in Edinburgh for their kinsmen as well as other clients.

1650-1700

In the period from 1650 to 1700 there is again considerable evidence of a close relationship between Highland chiefs and Edinburgh lawyers. Appendix VI lists the lawyers who were found from the sources being analysed to be acting for the Highland elite at this time and lawyers who belonged to Highland kindreds.¹⁶⁴ The nature of the chief-lawyer relationship has undergone a transformation from the previous period. The number of Edinburgh lawyers from Highland kindreds themselves has increased significantly: they now form the majority of lawyers found in the sources used. It is now common to find an Highland chief employing his own kinsman as his legal agent in Edinburgh to oversee his legal affairs. Kinship has therefore become a very important factor in governing the chief-lawyer relationship. It can also be seen from

Appendix VI that the total number of lawyers found in the sources has decreased. This is not related to a decreasing amount of legal work being carried out for the chiefs since at this time the amount of litigation was increasing as many chiefs became locked in lengthy legal disputes with their creditors. It is rather due to a rationalisation in the employment of lawyers: "clan" lawyers oversaw their chief's legal affairs in Edinburgh and liaised with other lawyers who were required for example to plead in one of the central courts. These other lawyers, however, rarely appear in the documents in Highland family muniments since most legal work in⁵ now solely channelled through the "clan" lawyer who is often the major correspondent of chiefs in the later 17th century.

The importance of the "clan" lawyer is revealed in the following extract from a letter of 5 October 1696 from John Munro 4th baronet of Foulis to the Edinburgh advocate John MacKenzie, later of Delvine: "I acknowledge we had great loss in managing of our affaires through the death of Mr Robert Monro advocat".¹⁶⁵ Mr Robert Munro acted as the legal agent for his chief Munro of Foulis. Other examples of "clan" lawyers during the later 17th century include Colin Campbell of Carwhin WS who acted for John Campbell Earl of Breadalbane,¹⁶⁶ Robert Fraser for the Fraser of Lovat, John MacKenzie advocate son of MacKenzie of Coul for various MacKenzie kindreds and other highland families,¹⁶⁷ John MacLean WS, Mr Alexander MacLeod advocate, Roderick MacLeod WS, Mr Aeneas MacPherson advocate and Mr Duncan Robertson writer.¹⁶⁸

Other Highland lawyers managed the legal business of a variety of clients who were not kinsmen. Such a man was John Bain of Pitcairly who was the son of Mr Duncan Bain of Killmure who owned lands in Ross.¹⁶⁹ On 26 December 1651 John Bain made a contract with Sir John MacKenzie of Tarbet to sell 600 bolls of beir from

MacKenzie's lands.¹⁷⁰ This reveals another aspect of the Edinburgh lawyers' work at this time; the involvement in trading activities. Throughout the 1650s Bain was employed by Sir James MacDonald of Sleat as his legal agent in Edinburgh. An interesting letter from Bain to Sir James of late 1657 or early 1658 shows the lawyer's involvement in giving advice concerning the marriage of Sir James's son who seems to have been keen to secure an English marriage:

He now resolves to follow your directions to go to England.... I cannot (wishing him well) have any freedom to advise him to go there. It is my judgement that he should settle at home.¹⁷¹

Bain went on to advise his client that the Earl of Atholl's sister or the Earl of Murray's sister were more attractive matches for his son but that of the two Murray's sister was preferable since her tocher would be greater and an important political alliance established: "all your honour intends will be thereby effectuate, for the Marquis of Argyll, if my Lord Lorne's son live, will be, he and your son's bairns, will be cousins germans".¹⁷²

In the 1650s and 1660s Bain was also employed by the MacLeods of Dunvegan.¹⁷³ That the MacLeods of Dunvegan and MacDonalds of Sleat could employ the same legal agent is a further indication of how good relations must have been between these two kindreds at this time. A discharge by Bain of 6 November 1666 put his yearly pension from MacLeod of Dunvegan at £400.¹⁷⁴ Bain was also employed by the Marquess of Atholl. The Privy Council Register for 27 April 1682 stated that the Marquess was "constantly in use to employ the deceast Mr John Bain of Pitcairly as his writer and for manadging of his effaires at law".¹⁷⁵ Other clients included John MacLeod of Raasay, MacLean of Coll, the 13th Earl of Sutherland, Lord Strathnaver and James Grant of Freuchy.¹⁷⁶ Bain was therefore employed by a large number of

Highland clients and this is surely evidence of his abilities as a lawyer. George Dallas, the author of "A System of Stiles", was apprenticed to Bain in 1652 and refers to his master several times with much respect in this work.¹⁷⁷ "A System of Stiles", which was published in 1697, was "the first attempt in Scotland to publish a complete compendium of conveyancing and its influence upon Scottish draftmanship must have been both widespread and lasting".¹⁷⁸ It continued to be used in the training of writers throughout the 18th century.

The social origins of the Highland lawyers of the later 17th century will now be examined. Advocates and Court of Session judges will be considered first. George MacKenzie of Tarbet was a Lord of Session and Lord Clerk Register and was an Highland chief himself being head of the MacKenzies of Tarbet. Tarbet's brother was also an advocate and he reached the bench as Lord Prestongrange. Sir George MacKenzie of Rosehaugh, advocate and Lord Advocate, and his brother Mr Colin MacKenzie advocate were sons of Simon MacKenzie of Lochslinn. John MacKenzie of Delvine was the third son of MacKenzie of Coul, Mr Archibald Campbell advocate the son of George Campbell sheriff-depute of Argyll, Colin Campbell of Aberuchill advocate the son of James Campbell of Aberuchill and Sir James Grant of Dalvey advocate was the son of Grant of Gartenbeg.¹⁷⁹ Highland advocates were clearly members of the Highland elite.

Writers to the Signet included Colin Campbell of Carwhin WS the third son of Colin Campbell of Mochaster, John Campbell of Succoth WS the son of William Campbell of Succoth and Ronald Campbell of Balerno the son of Alexander Campbell of Kilcharmaig. Archibald Menzies WS was the 7th son of Sir Alexander Menzies of that Ilk and Hugh Munro WS the son of David Munro minister of Killearn.¹⁸⁰ Highland Writers to the Signet were therefore of slightly lower social origins than the advocates.

There were also a number of Edinburgh writers of Highland origins. Some of these included Mungo Campbell, Aeneas MacDonald, Ronald MacDonald, Angus MacIntosh and Mr Alexander MacKenzie.¹⁸¹ It has proved difficult to ascertain the social origins of these individuals. This is surely an indication, however, that they were not generally from the top levels of Highland society although there are exceptions like Mr Duncan Robertson writer who was the brother of the Laird of Faskally. It appears that the social hierarchy existing in the Highlands was reproduced within the Edinburgh legal hierarchy. This is to be expected since there were substantial costs involved in becoming an advocate.

The second half of the 17th century witnessed a substantial movement by members of the Highland elite and clan gentry into the Edinburgh legal profession. This movement can be considered to be part of a more general trend within Highland society during the 17th century: a process of "professionalisation". It was not just the legal profession that attracted the younger sons of chiefs and members of the clan gentry but also the army and the ministry, and some were training in the burghs to become merchants.¹⁸²

What explanation is there for this movement into the Edinburgh legal profession in the later 17th century? The Faculty of Advocates was generally attracting individuals of higher social origins in the latter half of the 17th century than it had done in the first half.¹⁸³ Ouston states that "A comparison for pre-and post-war figures for the social origins of advocates reveals one obvious change: the consolidation of the dominance of the bar by lairds and baronets".¹⁸⁴ As has been shown before in the later 16th century and early 17th century advocates had tended to be sons or burgesses or other lawyers.¹⁸⁵ The rising social prestige attached to the profession may have made it

more likely for members of the Highland elite to pursue careers as lawyers in Edinburgh.

The legal profession as a whole witnessed a general expansion in size during the 17th century. This was particularly marked in the later 17th century. The work of Helen Dingwall has revealed that there were at least 179 writers working in Edinburgh by the 1690s; one lawyer for every 165 of the population.¹⁸⁶ As the profession expanded job opportunities were created as writers tended to employ one or two apprentices who carried out much of their routine work. It has already been shown that literacy in Scots and "lowland" style education often at school and University had spread to include most of the Highland elite and clan gentry during the 17th century.¹⁸⁷ The younger sons of chiefs and clan gentry had the required educational background to gain access to the Edinburgh profession and train to be advocates, Writers to the Signet or writers.

The financial problems of the Highland chiefs in the later 17th century which were associated with high levels of indebtedness also seems to have been a factor in bringing about this "professionalisation" of Highland elite society.¹⁸⁸ Employing a kinsman as a lawyer might save the chief money. This was certainly the case when Alexander Campbell, an Edinburgh writer, declared in a contract that he would carry out all of his brother's legal work free of charge.¹⁸⁹ His brother was John Campbell of Glenorchy who later became first Earl of Breadalbane.

Finally, the growing relationship between chiefs and lawyers led to an increasing reliance on Edinburgh lawyers by the chiefs and this close business and social relationship no doubt encouraged the movement of younger sons of chiefs and members of the clan gentry into the Edinburgh legal profession.

It has been suggested that a number of factors were involved in the process which led to a substantial number of Highlanders joining the ranks of the Edinburgh legal profession: the rising social status of the profession, the expansion of the profession, the spread of "lowland" education amongst the Highland elite and clan gentry, the financial difficulties faced by most chiefs in the later 17th century and the relationship between chiefs and lawyers that had developed since the 16th century.

An examination of Appendix VI reveals that two highland kindreds provided more lawyers than any others in the period from 1650 to 1700: the Campbells and the MacKenzies. It is no great surprise to find more lawyers from these two kindreds since they were the most successful expansionist clans of the 16th and 17th centuries and had forged close relations with central government and made use of the central law courts from an early date. Campbell lawyers from the period 1650 to 1700 included three advocates, three Writers to the Signet and two writers while there was one MacKenzie Lord of Session, seven advocates, one Writer to the Signet, four writers.¹⁹⁰ The MacKenzies therefore had more power in the top level of the legal profession than any other Highland kindred in the later 17th century and in the 1680s than any other Scottish family. This was related to the patronage of Lord Tarbat¹⁹¹ as well as the cultural orientation of the MacKenzie chiefs from the later 16th century who saw which way the wind was blowing and cemented relations with the rising power of central government. In the later 17th century the sources also reveal that there were three Munro lawyers, three MacPherson, two MacDonald, two MacIntosh, two Fraser and two MacLeod.¹⁹² Other kindreds appear not to have had any kinsman working in the Edinburgh legal profession, eg the MacDougalls, Stewarts of Appin, Camerons or the MacGregors.

An analysis of the relationship between highland chiefs and Edinburgh lawyers in the period from 1650 to 1700 has revealed that the relationship became increasingly governed by kinship with greater numbers of the Highland elite and clan gentry moving into the profession themselves. Certain Highland kindreds had a larger presence in the profession than others with the MacKenzies proving the most successful in terms of numbers at the top level.

CONCLUSIONS

In the later 15th and early 16th century Highland chiefs either appeared personally at the central courts or employed a procurator. These procurators should not be regarded, however, as members of a distinct legal profession. It seems that the origins of the relationship between chiefs and the Edinburgh legal profession lies in the period immediately following the establishment of the Court of Session in 1532 when chiefs were forced to employ members of an embryonic profession to plead for them in court.

For the period from c1550 to 1600 it has been demonstrated that relations existed between the Edinburgh legal profession and the Highland Earls, many Highland chiefs, some of the West Highland and Island chiefs and even a small kindred like the Robertsons of Lude. This relationship therefore existed at an earlier date than has previously been thought. In this period most of the lawyers who were employed by the chiefs were advocates, a few had origins in areas near the Highlands and three were members of Highland kindreds.

The large amount of evidence relating to the relationship in the period from 1600 to 1650 has revealed that the government took a more interventionist role in formalising relations with the Island chiefs and that the number of writers being employed increased, reflecting the changing nature of the legal work required, and the changing nature of the legal profession. It has also been shown that a group of lawyers began to specialise in Highland clients some of them making use of their bilingual skills in both Scots and Gaelic and that a larger number of Highlanders were moving into the legal profession in Edinburgh.

The final period from 1650 to 1700 was characterised by a significant change in the nature of the relationship. Significant numbers of Highlanders moved into the profession so that a majority of the chiefs' work was managed by lawyers from Highlands kindreds. The Highland elite were now represented at the top level in the profession especially in the Faculty of Advocates. The rise of these "clan" lawyers meant that the client-lawyer relationship was more likely to be governed by kinship in the later 17th century than it had been in the later 16th century. A number of factors have been put forward to explain why this process was taking place. They include the rising status of the legal profession, the expansion of the profession in terms of numbers of lawyers, the spread of "lowland" education amongst the Highland elite and clan gentry, the financial problems of the Highland chiefs associated with increased indebtedness and the relationship that had developed between chiefs and lawyers from the 16th century.

The study of this relationship has also revealed much about the nature of the work being carried out by the lawyers for the Highland chiefs. The evidence from the 16th century suggests that most work was related to representing the chiefs in the central courts of Session, Privy Council and Justiciary. Evidence from the 17th century

reveals the wide range of activities carried out by Edinburgh lawyers for the chiefs. These included overseeing conveyancing, managing the debts and finances of the chiefs, buying and selling the produce of their lands, giving advice on marriage alliances, supervising the education of the chief's children if they were being educated in Edinburgh, acting as political lobbyists both in Edinburgh government circles and at Court in England and as a vital source of information and news. The 17th century Edinburgh lawyer was very much a "man of business".

¹ Allan I. MacInnes, "Repression and Conciliation: The Highland Dimension 1660-1688", SHR lxxv (1986), 184, *Clanship, Commerce and the House of Stuart, 1603-1788*, (1996), 73.

² Jean Munro, "Clansmen and Clients", *The Scottish Genealogist*, xii (1965), 36-50. and Jean Dunlop, "A Chief and his Lawyer", *TGSI*, xlv, 257-283.

³ Alick Morrison, "Roderick MacLeod, Writer to the Signet", *TGSI*, lvi (1988-90), 113-184 and "The Accounts of a Doer: Alexander MacLeod the 'Advocat'", *TGSI*, l (1976-8), 97-172.

⁴ W. Prest (ed.), *Lawyers in Early Modern Europe and America* (London 1981), 13.

⁵ *Infra*, 195-216.

⁶ There are numerous examples in the Privy Council Register. For example on 3rd October 1601 and 6 August 1602 Sir Duncan Campbell of Glenorchy was represented by his son Robert Campbell, RPC, first, vi, 305, 442. On 10 February 1603 MacIntosh of Dunnachton was represented by his son John MacIntosh, *Ibid.*, vi, 536.

⁷ J.J. Robertson, "The development of the law", in *Scottish Society in the Fifteenth Century*, ed. Jennifer M. Brown (London, 1977), 147.

⁸ Gordon Donaldson, "The Legal Profession in Scottish Society in the 16th and 17th centuries", *Juridical Review* (1976), 3.

⁹ John Finlay has recently completed a study of the rise of the legal profession in the first half of the 16th century: Finlay, J. 'Professional Men of Law before the Lords of Council, c1500-c1550', (Edinburgh University PhD, 1998). It was not possible to consult Finlay's thesis before the presentation of this study.

¹⁰ *Acts of Council*, cviii-cix.

¹¹ *Ibid.*, 95, 105-6.

¹² *Ibid.*, 111.

¹³ *Ibid.*, 123, 209.

- 14 Donaldson, *Legal Profession*, 2.
- 15 *Acta Sessionis*.
- 16 Ibid., 7-8.
- 17 Ibid., 61-2.
- 18 Ibid., 84-5.
- 19 RPC, first, i p.37.
- 20 SRO Bread. Muns., GD 112/2/3a/1.
- 21 *Clan Campbell*, viii, 10-11, 12, 12-13, 14, 18, 20, 21.
- 22 *Chron. Frasers*, 159.
- 23 Fraser, *Grant*, ii, 36-7.
- 24 *ibid*, p36-7.
- 25 Robert V. Agnew(ed.), *Correspondence of Sir Patrick Waus of Barnbarroch*, (Edinburgh, 1887), 285.
- 26 Ibid., 137, 140-1, 435, 449-50, 458, 464-5.
- 27 Jenny Wormald, *Lords and Men: Bonds of Manrent, 1442-1603*, (Edinburgh, 1985), 134.
- 28 RPC, first, ii, 500, 546.
- 29 Pitcairn, *Trials*, ii, 62-3.
- 30 RPC, first, v, 746.
- 31 Gordon, *Earldom of Sutherland*, 170.
- 32 RPC, first, ii, 37-8, 57-8, 437.
- 33 Fraser, *Grant*, iii, 176-9.
- 34 RPC, first, ii, 500.
- 35 RPC, first, ii, 515-17.
- 36 RPC, first, ii, 587-8.
- 37 SRO Bread. Muns., GD 112/25/34, GD 112/2/77/7.
- 38 *Infra*, 144.
- 39 John Ballantyne, *Calendar of Entries(Excluding Deeds) in Register of Acts and Decrees, 1564-6*, CS 7/34-35.
- 40 *ibid.*, CS 7/35 f154.
- 41 Fraser, *Grant*, iii, 391-3.
- 42 *ibid.*, iii, 401-2.
- 43 RPC, first, v, 740.
- 44 Fraser, *Grant*, iii, 189-92.
- 45 RPC, first, iv, 69.

- 46 *Old Ross-shire*, i, 107-10.
- 47 Fraser, *Grant*, iii, 176-9.
- 48 RPC, first, iv, 450-1.
- 49 *Munro Writs*, 111, 132.
- 50 RPC, first, v, 762.
- 51 *Ibid.*, 63-4.
- 52 Ballantyne, *Calendar of Entries*, CS 7/34 f122, f161, f234, f406.
- 53 *Infra*, 138-141.
- 54 RPC, first, v, 736.
- 55 RPC, first, i, 292-3.
- 56 RPC, first, iii, 235.
- 57 *Lamont Papers*, 105.
- 58 RPC, first, ii, 515-17.
- 59 Angus MacKay, *The Book of Mackay*, (Edinburgh, 1906), 399-406.
- 60 RPC, first, v, 737.
- 61 *Cawdor Bk.*, 194-5., 205.
- 62 *Ibid.*, 208.
- 63 RPC, first, ii, 587-8.
- 64 *Ibid.*, first, iv, 315., 403.
- 65 Fraser, *Grant*, iii, 189-92.
- 66 RPC, first, i, 313.
- 67 RPC, first, ii, 491, 519-21.
- 68 RPC, first, iii, 132-3.
- 69 RPC, first, v, 740-1.
- 70 *Coll. de Rebus Alban.*, 7.
- 71 RPC, first, iii, 18.
- 72 SRO Robertson of Lude Muniments, GD 132/23.
- 73 Appendix IV, 271-6.
- 74 Donaldson, *Legal Profession*, 11.
- 75 *Faculty of Advocates*, 43, 124-5., 53.
- 76 *ibid.*, 39.
- 77 *Infra*, 138.
- 78 *Faculty of Advocates*, 153.
- 79 *Supra*, 144.
- 80 *Register of Writers*, 230.

- 81 *Munro Writs*, 108.
- 82 *Ibid.*, 132.
- 83 *Ibid.*, 106, *Old Ross-shire*, i, 373-4.
- 84 *Munro Writs*, 107.GD 93/107.
- 85 RPC, first, iv, 254-6.
- 86 *Register of Writers*, 43. He married Katherine Wallace on 2 July 1600 and died on 23 October 1611.
- 87 RPC, first, iv, 593.
- 88 RPC, first, v, 381-2.
- 89 SRO Bread. Muns., GD 112/2/6/35.
- 90 *Clan Campbell*, viii, 145.
- 91 *Register of Writers*, 146.
- 92 RPC, first, xi, 69.
- 93 RPC, first, xiii, 30.
- 94 Herbert Campbell, *Abstracts of the Particular Register of Sasines for Argyll, Bute and Dumbarton, otherwise known as the Argyll Sasines*, (Edinburgh, 1933), 68-9.
- 95 Fraser, *Sutherland*, ii, 355.
- 96 Appendix V, 277-284.
- 97 *Ibid.*
- 98 *Infra*, 136-163.
- 99 Fraser, *Grant*, ii, 39.
- 100 SRO MacIntosh Muniments, GD 176/272.
- 101 Fraser, *Grant*, ii, 44-5.
- 102 RPC, 2, vi, 176-8.
- 103 Fraser, *Grant*, ii, 60-1.
- 104 *Ibid.*, ii, 61-2.
- 105 *Ibid.*, ii, 61-2.
- 106 *Infra*, 205-12.
- 107 Fraser, *Grant*, iii, 230.
- 108 RPC, first, xi, 255, xii, 40-1.
- 109 *Ibid.*, second, vi, 392-3.
- 110 Fraser, *Grant*, ii, 62-3.
- 111 *Ibid.*, ii, p.82.
- 112 *Infra*, 135-163, 174-194.
- 113 *Cawdor Bk.*, 223-4.

- 114 Ibid., 224-6.
- 115 RPC, first, x, 443.
- 116 *Cawdor Bk.*, 241-2.
- 117 Ibid., 241-2.
- 118 Ibid., 255.
- 119 John Alexander Henderson(ed.), *History of the Society of Advocates in Aberdeen*, New Spalding Club, (Aberdeen, 1912), 281.
- 120 Ibid., 152.
- 121 RPC, first, xi, 278.
- 122 Ibid., iv, 628.
- 123 *Cawdor Bk.*, 247.
- 124 Ibid., 250-1.
- 125 Ibid., 252-3.
- 126 Ibid., 249-50.
- 127 *Cawdor Bk.*, 239-41.
- 128 Ibid., 249-50, 251.
- 129 *Infra*, 183.
- 130 *Cawdor Bk.*, 251.
- 131 Ibid., 295.
- 132 Ibid., 298.
- 133 Ibid., 301.
- 134 Jean Munro, "When Island Chiefs came to Town", *Notes and Queries of the Society of West Highland and Island Historical Research*, xix, (December 1982), 11-19.
- 135 *Highland Papers*, iii, 145.
- 136 Ibid., 145.
- 137 RPC, first, x, 699-700.
- 138 RPC, second, iii, 199.
- 139 Munro, *Island Chiefs*, 15, 18.
- 140 Ibid., 15.
- 141 Ibid., 19.
- 142 RPC, first, x, 699.
- 143 Jean Munro(ed.), *The Inventory of Chisholm Writs, 1456-1810*, SRS,(Edinburgh, 1992), 7.
- 144 *Clan Campbell*, viii, p.145.
- 145 RPC, ix, 345, x, 574, 654, xi, 382, xiii, 554.

- 146 Ibid., ix, 389, xii, 112-13, 283, second, iv, 176-7, 281-2, v, 511.
- 147 Supra, 87.
- 148 Pitcairn, *Trials*, iii, 246.
- 149 SRO Seaforth Muniments, GD 46/4/260.
- 150 RPC, first, ix, 551, x, 573, xi, 73-5,
- 151 Ibid., second, ii, 241, iii, 199, *Cawdor Bk.*, 295.
- 152 *Taymouth Bk.*, 96, 106, *Clan Campbell*, vi, 239-40, 276, *Lamont Papers*, 195.
- 153 *Book of Dunvegan*, i, 103, RPC, second, v, 576.
- 154 RPC, first, xiii, 554, second, ii, 19, iv, 576, *Book of Dunvegan*, i, 223-26.
- 155 *Clan Campbell*, vi, 184-5, 300.
- 156 SRO Particular Register of Sasines, RS 37/7, ff.130-1.
- 157 *Faculty of Advocates*, 142.
- 158 RPC, first, xiii, 19-20.
- 159 RPC, 2, iii, 199.
- 160 RPC, 2, vi, 112-13.
- 161 *Justiciary Cases*, i, 86.
- 162 *Register of Writers*, 102.
- 163 RPC, second, iv, 588, v, 163, vi, 150.
- 164 Appendix VI, 285-92.
- 165 NLS Delvine Papers, MS 1391, f.37.
- 166 Infra, 156-7.
- 167 Infra, 174-194.
- 168 Appendix VI, 285-92.
- 169 SRO Particular Register of Sasines, RS 37/7, f.160.
- 170 SRO Cromarty Muniments, GD 305/1/147/1.
- 171 L. MacDonald, "Gleanings from Lord MacDonald's Charter Chest", *TGSI*, xiv, 72.
- 172 *ibid.*, 72.
- 173 *Book of Dunvegan*, i, 124, 127, 234, 235, 236, 237, 239.
- 174 *Ibid.*, i, 234.
- 175 RPC, 3, vii, 397-8.
- 176 RPC, third, i, 27, 136-7, Fraser, *Sutherland*, ii, 173-4, iii, 203-13, Fraser, *Grant*, iii, 346-55.
- 177 H.P. MacMillan, "The Old Scots Conveyancers" I, *JR*, x, (1898), 428.
- 178 *ibid.*, p.427.

- 179 Appendix VI, 285-92.
- 180 Ibid.
- 181 Ibid.
- 182 Supra, 20.
- 183 Hugh Ouston, "York in Edinburgh: James VII and the Patronage of Learning in Scotland 1679-1688" in Dwyer, Mason & Murdoch(eds.), *New Perspectives on the Politics and Culture of Early Modern Scotland*, 144-5.
- 184 Ouston, *York in Edinburgh*, 145.
- 185 Supra, 78.
- 186 Helen M. Dingwall, *The Social and Economic Structure of Edinburgh in the Late Seventeenth Century*, Edinburgh University PhD, 1989, 433.
- 187 Supra, 29-34.
- 188 Infra, 217-248.
- 189 Infra, 156.
- 190 Appendix VI, 285-92.
- 191 Infra, 175-6.
- 192 Appendix VI, 285-92.

CHAPTER 3: HIGHLAND CHIEFS AND LOCAL LAWYERS C1550 TO 1700

In a letter of c1620 Sir Robert Gordon gave the following advice to his nephew John 13th Earl of Sutherland concerning the employment of lawyers:

yow shall still have in your owne companie a man expert in the laws and statutes of the kingdome, whom you shall retaine alwayes with your self as your domestick servant. Let he be a publick noterie, and a messenger at armes. It is best to have him a borne Southerland man for so shall he be trustiest to you.¹

Sir Robert viewed the employment of such an individual as a vital factor in the efficient administration of the affairs of the Earl's household and estates. This chapter is concerned with examining the lawyers who worked in the Highlands for the chiefs in the period from c1550 to 1700. Many of these individuals were notaries public and so can be regarded as qualified members of the Scottish legal profession. Others were not qualified notaries but seem to have fulfilled a legal function in the administration of the legal and financial business of the chiefs and were most commonly referred to as "servitors" in the documentary sources.

Most of these Highland lawyers were regarded as part of the "domestick" servants of the chiefs. Servants were an important and substantial social group in early modern Scotland in the Highlands and Lowlands, although as yet they have received little attention from historians.² The "legal servitors" that are being considered here most often formed the elite of the servants of a chief. This is most clearly revealed by the fact that they were the best paid. That the servant class as a whole in the Highlands was substantial is illustrated by the testament of George Earl of Caithness who died on 9 September 1582. His testament lists 46 servants who were owed fees.³

In order to set the discussion in context it is necessary to discuss local lawyers in the period before 1550.

BEFORE 1550

An examination of local lawyers who worked for Highland and Island chiefs before c1550 must consider two distinct groups of legal practitioners who worked in the Highlands: firstly the Gaelic hereditary legal profession or breves who operated within the context of "Celtic" law and secondly the notaries public trained in the Scottish feudal law.

The breve or brieve, from the Gaelic *breitheamh*, meaning judge or lawman, was a member of the hereditary legal profession of Gaelic Scotland.⁴ Other hereditary professional families included doctors, musicians, historians and poets.⁵ In his article "Gaelic Learned Orders and Literati in Medieval Scotland", Thomson has surveyed the evidence that survives relating to the breve in Scotland and has given a fairly detailed account of its history. He states that "despite the long history of Gaelic legal officers in Scotland, there is a disappointing scarcity of Gaelic legal MSS".⁶ He provides a list of the surviving material: some stray paragraphs in MSII(NLS) on the rights and responsibilities of the physician, a tract on the Law of Sunday, a comment on the privileges of poets(MS VII), one Gaelic charter, a contract of fosterage and an agreement between a Scottish and an Irish chief in the mid-16th century.⁷ Suggestions for this dearth of source material relating to the Scottish Gaelic lawman are the destruction of legal documents on a large scale⁸ or the strongly oral character of Gaelic law which required very little to be committed to paper or parchment.⁹ A

combination of both is no doubt behind the dearth of primary historical source material.

The history of the Gaelic hereditary legal profession in Scotland therefore remains somewhat obscure. There are some references in the charters of the Lords of the Isles: Donaldus Judex witnessed Alexander Lord of the Isles's charter of 13 November 1447 to Malcolm MacIntosh.¹⁰ There are also references to "Donald Breyff" in June 1456 and in December 1457 to "Donaldus McGillemor iudex Insularum".¹¹ William "archiudex" is found in Angus Og's charter of 1485.¹² This appears to have been a chief judge which, as J. Munro and R.W.Munro state, implies the existence of subordinates to him.¹³

There are other brief descriptions by later commentators that have been surveyed by Thomson and give us some small details about the role of these individuals. For example Sir Robert Gordon gives the following description:

The Breive is a kynd of judge amongst the ilanders, who hath ane absolute iudicatione unto whose authoritie and censure they willinglie submitt themselves, when he determineth any debatable question betuein partie and partie.¹⁴

Sir Robert was writing in 1630 and so this indicates that the position was still functioning in the Islands but not elsewhere in the Highlands at this date.

From the evidence surveyed above it seems that in the later medieval period the office of breve became associated with the Lordship of the Isles. Within this Gaelic cultural environment the hereditary professional lawmen continued to function long after they had disappeared from the Lowlands and the rest of the Highlands.

Dean Munro's description of 1549 of the Council of the Lord of the Isles contains a reference to the system of law used by the Gaelic lawmen:

Thir 14 persons sat down into the Counsell-Ile, and decerit, decreitit and gave suits furth upon all debatable matters according to the Laws made be Renald McSomharkle callit in his time King of the Occident Iles.¹⁵

The implication is that a distinct body of Gaelic law existed. In 1504 the Scottish Parliament stated that "all our soverane lordis liegis beand under his obesance in speciale all the Ilis be reulit be our soverane lordis aune lawis and the commoun lawis of the realme and be naun other lawis".¹⁶ This is surely an indication of the continued functioning of a Celtic based law administered by the breves despite the forfeiture of the Lordship of the Isles by James IV in 1493. However in the longer term it seems that the demise of the Lordship spelt the end for a distinctive Gaelic legal tradition and as a result the hereditary legal profession in the Islands. The Statutes of Iona of 1609 make little reference to any differences between Scottish law and the laws administered in the Islands with the exception of a difference in marriage law: "mariageis contractit for certane yeiris" were to be discharged and those involved were to be punished as fornicators according to the Acts of Parliament of the realm.¹⁷ If the legal structure had been markedly different in the Islands in the early 17th century the Scottish government would surely have taken the opportunity to reform the situation as they did in extending legal conformity to Orkney and Shetland in 1611 by abolishing "Norse " law or "foreyne lawis" as referred to by the Privy Council.¹⁸ It therefore seems that the Gaelic legal tradition had undergone a period of fairly brisk decline between 1504 and 1609, no doubt reflecting the rebalanced relationship between

central government and the Highland elite caused by the forfeiture of the Lordship of the Isles by James IV in 1493.

The final decline of an active "Celtic" legal profession in Scotland must then be dated to the 16th century. The final extinction of the Lordship of the Isles after Donald Dubh's rebellion of 1545, and the increasing pervasiveness of central government bringing Island chiefs into closer relations with the Lowland legal profession made the native profession gradually redundant.

A detailed examination of the role of the *breve* within Gaelic society is outwith the scope of this thesis and this brief survey has not shed any new light on the somewhat obscure history of the Gaelic hereditary legal profession in Scotland. Far more source material survives relating to the "*brehons*" in Ireland and a far more detailed picture of the role of this traditional lawyer can be constructed. Although sharing a common culture it should not be assumed that the Scottish *breve* mirrors exactly the Irish *brehon*.¹⁹

The other group of lawyers who were operating in the Highlands and Islands in the period before c1550 were notaries public and other individuals who although not professionally qualified as notaries possessed enough knowledge and experience to work as secretaries or scribes for the Highland and Island chiefs. In his study of the office of notary in Medieval Scotland, Durkan has shown that notaries public were operating in Scotland from the 13th century but it was in the 15th century that "there was a great increase in notaries".²⁰

J. Munro and R.W.Munro have published a very useful appendix of notes on the charter witnesses and office holders in their "*Acts of the Lords of the Isles, 1336-*

1493". This appendix gives profiles of the individuals who operated as secretaries, scribes and notaries public for the Lords of the Isles. The Lords of the Isles were employing notaries in the 15th century. The notary public Duncan Obrolchan witnessed a document at Finlaggan in 1456.²¹ The Munros point out that a rector of Kildalton in Islay of this name matriculated from Glasgow University in 1453. The Obrolchans were a hereditary professional family specialising in the carving of stone who also moved into positions in the church.²² James Auchinleck, precentor of Caithness from 1479 to 1497, witnessed a document as secretary to John earl of Ross in 1475 and he appears as a qualified notary public by 1484.²³ Another notary public who was employed by the Lords of the Isles was Alexander Auchinleck who is found in the witness list of a document dated at Iona in 1492.²⁴ He may have been related to James Auchinleck and the surname does not suggest that they had their origins in a Gaelic environment. He may, however, have been bilingual, speaking both Scots and Gaelic and he was perhaps born in an area bordering the Gaidhealtachd where the two cultures met. It is difficult to imagine that an individual who did not speak any Gaelic would be employed to work for the Lord of the Isles where in the course of his legal work he would have to deal with many Highlanders who did not speak any Scots.

There were also individuals who were employed as clerks or secretaries by the Lords of the Isles. In 1389 David MacMurchie, the archdeacon of Argyll, was chaplain and secretary to Donald lord of the Isles.²⁵ Rogellus Obrolchan was secretary of Alexander Lord of the Isles, rector of a parish church in Argyll and from 1426 rector of Kilcolmkill in Morvern.²⁶ Neil Fleming who witnessed a document at Finlaggan in 1427 was described as "dominus Nigellus clericus domini Insularum" and is probably the same as the man who witnessed a document at Inverness in 1442 and who is described as "our secretary" at Dingwall in 1443 and 1447.²⁷ James Wick witnessed a document at Finlaggan in 1456 as clerk to John Earl of Ross and Lord of the Isles and

at Bute in 1461 as his chaplain. He also witnessed a document at Inverlochy in 1472 as secretary to John Lord of the Isles and at Islay in 1476 as his clerk and writer(scriba). He held a number of ecclesiastical titles: canon of Ross, prebendary of Kilmuir and chaplain of Delny.²⁸ Thomas Munro was described as secretary at Dingwall and Tain in 1463 and was designated as "rector of Kilmonawik" (Kilmonivaig) at Aros in 1469.²⁹ Colinus Fergusii witnessed a charter designated as chancellor (domini cancellarius) to Angus Lord of the Isles in 1485 and according to a crown rental of 1505 the Lord of the Isles gave lands in Kintyre for services to his "cancellarius et scriba".³⁰ It would seem that most of these men were churchmen. Some appear to have belonged to the Gaelic hereditary kindreds while others may have had their origins from outside the Highlands and Islands. The geographical origins of Fleming and Wick remain uncertain.

We also have evidence of a couple of churchmen who were qualified in canon law and who appear as witnesses in charters of the Lords of the Isles. Neil Celestini who was rector of Kilchoman in Islay witnessed a charter at Finlaggan in 1427 and is styled "bachelor of both laws".³¹ Neil Colini rector of Kilcolmkill in Morvern witnessed at Ardtornish in 1409 and is described as a bachelor of decreets.³² Although they do not seem to have drawn up legal documents themselves these individuals may have put their legal training to good use by giving advice to the Lords of the Isles.

The local lawyers of the Lords of the Isles were therefore drawn almost exclusively from the ranks of the church. Three were qualified notaries public but most no doubt had some experience and learning in the law which enabled them to function as secretaries and writers. A number were members of hereditary professional families, while a few were recruited from the Lowlands but it is likely they were fluent both in Gaelic and Scots and may have come from the bilingual boundary zone between the

two cultures. It is significant that the Lord of the Isles were employing legal practitioners in both traditions: breves operating in the traditional "Celtic" law and notaries public and secretaries trained in the feudal law.

The local legal personnel of other Highland chiefs for whom there is evidence in the period before c1550 will now be considered. In his thesis, MacGregor states that "before 1550, the Campbell of Glenorchy's notaries were products of the native milieu, often members of hereditary professional families serving in the unreformed church".³³ He cites the examples of sir Muiris MacNaughton vicar of Inchadin, *Eoin Cleireach mac Eoin Mhalaiche* and Seumas MacGregor dean of Lismore and his father.³⁴

Churchmen also worked as notaries public for other chiefs in the years before c1550. The Earls of Sutherland used a variety of notaries public to produce their legal documents between 1509 and 1549.³⁵ All the individuals were churchmen who had qualified as notaries public but none were members of hereditary professional families. The Earls of Sutherland did not employ the services of one particular notary who was attached to their household on a permanent basis during these years. There is not one notary who recurs more often than any others in the documentation and it seems that the Earls were not employing the exclusive services of one notary but were making use of a number who were present in the northern dioceses. The names of the notaries employed, which included Robert Donald, presbyter of Moray diocese, sir William Nory, vicar of Drumblet, sir Robert Donaldson, chaplain, sir John Auchlek, Thomas Gray, Thomas Hay, presbyter of the diocese of Moray and scribe of the consistorial court of Moray and Mr William Gordon are not suggestive of geographical origins in the Highlands but may indicate that they came from neighbouring areas.

The chiefs of Grant also employed notaries public in the early 16th century who were churchmen. Again various names appear in the documents from the period from 1505 to 1539 indicating that one notary was not attached to the household of the Grant chief.³⁶ Thereafter a couple of names occur more often than others in the documentation: Mr Thomas Hay presbyter of the diocese of Moray and Mr James Farquharson notary public.³⁷ It may have been the case that as the 16th century progressed, and the amount of legal work required by the chiefs increased, there was a tendency for chiefs to make use of particular notaries more often than others to administer their local legal requirements. It does not mean, however, that there were not individuals who were involved in the organisation of the legal and financial affairs of the Grant chiefs within their households before 1550. There were servitors who witnessed documents and who presumably had a good idea of the functioning of the legal mechanisms but who had not been professionally trained as notaries public.

A similar picture emerges from an examination of the family papers of the chiefs of MacIntosh³⁸ and the Munros of Foulis.³⁹ Both families did not employ full time notaries as members of their households in the period before 1550 but used the services of notaries public who were churchmen based in the northern dioceses.

Meek and Kirk have examined the notaries public and scribes found in the witness lists in the Argyll Transcripts.⁴⁰ Twenty notaries appear on record in the thirty years before the Reformation: a dozen or so are known to have held benefices within the diocese of Argyll, or are mentioned as priests or as dignitaries of the cathedral church of Lismore.⁴¹ Some of these individuals were members of hereditary professional families such as the notary public Mr Gilbert Macolchallum who was parson of Craignish and vicar of Lochgoilhead and Mr Cornelius Omey another notary who held the offices of parson of Kilberay and dean of Kintyre simultaneously.⁴² The best

known notary public found in the Argyll Transcripts was John Carswell who became superintendent of Argyll and who translated the book of common prayer into Gaelic. He graduated from St Andrews University in 1544 and was described as "notary public of the diocese of the Isles" on 5 August 1545 when he drew up a notarial certificate witnessing an oath taken by Donald Dubh at Knockfergus in Ireland.⁴³

CHIEFS AND LOCAL LAWYERS C1550 TO 1700

In his thesis "A Political History of the MacGregors before 1571" MacGregor indicated that the years around 1550 were important in the history of the Campbell of Glenorchy personal servitors:

After 1550, dramatic changes took place in the ranks of the personal servitors and retinue of the Campbells of Glenorchy, with the introduction and elevation to key posts of a considerable number of non-indigenous (ie non-Gaelic) individuals and families.⁴⁴

The Campbells of Glenorchy still patronised members of the professional families but "incomers often held the most important posts, as notaries and legal and financial agents".⁴⁵ After 1550 incomers such as Andrew White, Gavin Hamilton and William Bowie took over positions as legal servitors.

Andrew White, who was a burgess of Perth, was Colin Campbell of Glenorchy's chief notary from c1552 to c1571. He was the brother of Mr George White who was a burgess of Perth and who also worked on occasions for Colin Campbell of Glenorchy. Andrew White was probably also related to another of Colin's servitors Thomas

White.⁴⁶ On 2 October 1561 Andrew White gave Sir Colin Campbell of Glenorchy his bond of manrent and was infeft in an annualrent of £20 for his faithful service.⁴⁷ Andrew White acted as a procurator for Colin Campbell before the Privy Council in Edinburgh on 27 November 1564 registering a bond for him.⁴⁸ The burgh of Perth seems to have provided the Campbells of Glenorchy with a source of local legal servitors. The Perth connection also provided the family with the Edinburgh advocate Oliver Colt, the son of the Perth burgess Blaise Colt, who managed their legal affairs in Edinburgh.⁴⁹

Another incoming servitor who was probably connected with Perth was William Bowie. MacGregor states that he is probably to be identified with the William Bowie, student, and resident in Perth of 27 June 1587 who had become Mr William Bowie by 2 February 1597 and who first appears on record on 2 January 1586. He was tutor to Sir Duncan Campbell of Glenorchy's grandsons, acted as his notary, and commenced the writing of the Black Book of Taymouth which was dedicated to his patron, Sir Duncan Campbell, in June 1598.⁵⁰

Gavin Hamilton worked as the notary public for both Colin Campbell of Glenorchy and his son Sir Duncan. The career of Gavin Hamilton and the relationship between him and the chiefs of Glenorchy is discussed in more detail in another chapter.⁵¹

An examination of other Highland kindreds reveals that a similar pattern existed in the later 16th and early 17th century with the employment of incomers into the Highlands as local lawyers. A precept of sasine given by Archibald Earl of Argyll on 22 October 1584 in favour of Duncan Campbell of Glenorchy was witnessed by John Oigstoun, James Kincaid notary and James Keith described as the granter's servitor.⁵² None of these individuals appear from their names to have come from a Gaelic milieu nor were

they kinsmen of Campbell of Argyll. A charter by the 7th Earl of Argyll of 16 April 1598 was witnessed by James Erskine, Mr George Erskine and Mr Thomas Low⁵³ while another precept of clare constat of 30 April 1584 by Colin Earl of Argyll in favour of Duncan Campbell of Glenorchy was witnessed by John Oigstoun, the granter's writer, John Roy Campbell, master of the household, Alexander Menteith and Ninian Stewart younger the granter's servants.⁵⁴ A kinsman was still leading the household but other key positions were held by non-kinsmen.

In the later 16th century and early 17th century the legal work of the 7th Earl of Argyll in the locality was administered by the two University graduates Mr John Archibald and Mr George Erskine. Neither were kinsmen and they seem not to have had their origins in the Highlands. Mr John Archibald was initially employed by Sir Duncan Campbell of Glenorchy. In a bond which was registered on 2 July 1596 he was described as a servitor of the Laird of Glenorchy.⁵⁵ Mr John Archibald also appeared as the procurator of Sir Duncan Campbell of Glenorchy before the Privy Council on 22 July 1596 in a complaint by Glenorchy against Colin Campbell of Glenlyon for entering his forest and illegally building shielings, cutting down trees and slaying deer and wild beasts.⁵⁶ He appeared as the procurator of Dame Agnes Douglas Countess of Argyll before the Privy Council in 19 February 1600⁵⁷ and appeared before the same court as procurator for Archibald 7th Earl of Argyll on 25 November 1600 and 1 January 1601.⁵⁸ In January 1621 he is described as an "indweller in edinburgh" in a case against him in the Court of Session.⁵⁹ As late as 1623 he was still being employed by the 7th Earl of Argyll. A letter from the Earl from Brussels of 16 November 1623 to Sir Duncan Campbell of Glenorchy indicated that he had appointed Mr John Archibald to pass the infetment of Argyll's son James through the seals.⁶⁰ It appears that Archibald was from the burgh of Stirling. The witnesses to an assignation of 1595 by Michael Elphinston, brother of Lord Elphinston, to Sir

Duncan Campbell of Glenorchy include Mr John Archibald and his brother Adam Archibald, burgess of Stirling.⁶¹ Archibald therefore worked for both Sir Duncan Campbell of Glenorchy and the 7th Earl of Argyll and had his origins in Stirling which is close to the boundary between Gaelic and Scots speaking areas which probably places him within the group of bilingual lawyers who worked for the chiefs in the later 16th and throughout the 17th century.

Mr George Erskine was a legal servitor of the 7th Earl of Argyll who acted as his procurator before the Privy Council on 19 February 1601,⁶² on 25 November 1602⁶³ and on 21 December 1602.⁶⁴ He witnessed a bond of protection and maintenance by the Earl of Argyll to Sir Duncan Campbell of Glenorchy at Stirling on 26 June 1593, and an obligation by the Earl of Argyll to Sir Duncan Campbell of Glenorchy on 4 January 1594.⁶⁵ In two documents printed in Highland Papers vol.i, the "Ardkinglass Confession" of 21 May 1594 and the Laird of Glenorchy's answer to the Ardkinglass disposition of 28 June 1584 he is described as the brother of the Earl of Mar.⁶⁶

In the 1550s documents were drawn up for John Grant of Freuchy by the notary public Mr James Farquharson who appears in documents dated at Freuchy on 1 May 1551, at Inverness on 22 June 1551 and at Ballacastell on 1 June 1553.⁶⁷ It seems likely that he was a churchman as he was working for the family before 1550 and that he was not solely employed by the Grant family. In the 1580s Mr William Gregor was undertaking the local legal work for Grant of Freuchy. He is described as Grant's servitor and worked for him down to at least 1606.⁶⁸ He was most probably a Gaelic speaker from the Highlands for in one document he is called "Mr William McGregor"⁶⁹ and in the testament of John Grant of Freuchy, who died on 2 June 1585, he is listed amongst those who were owed fees by Grant and is also called MacGregor.⁷⁰ That Grant required his own personal notary by the 1580s is indicative

of the larger amount of legal work that was required to be undertaken by a Highland chief by the later 16th century. By 1602 another notary had taken over Grant's local legal work. This was "Johne Donaldsone, notar, sevitour to the said John Grant of Freuquhye".⁷¹ A decreet arbitral of 28 October 1608 by John Grant of Freuchy was witnessed by John Donaldson, Robert Inglis, Allan Grant and George Stevenson who were all described as servitors of Grant of Freuchy.⁷² Inglis and Stevenson are Lowland names and so there was also an intrusion of incomers into the ranks of the Grant of Freuchy servitors at this time. Allan Grant would appear to be a kinsman of the chief and was probably a local man.

Evidence relating to other Highland kindreds also reveals that chiefs were employing incomers who were not kinsmen as notaries and personal servitors in the period from 1550 to 1700. John Irving was employed as a servitor by Colin MacKenzie of Kintail. On 21 January 1583 he acted as procurator for Colin MacKenzie before the Privy Council when he is described as "Johnne Irwing in Channonrie of Ros".⁷³ In the testament of Colin MacKenzie of Kintail, who died on 19 June 1594, he is listed as one of his servants and was owed his yearly fee of £66 13s 4d.⁷⁴ In 1606 MacDonald of Glengarry had a servitor called John Reid who witnessed a discharge by Glengarry to Grant of Freuchy.⁷⁵ John Auchinross was scribe and servitor to Lachlan MacLean of Duart in 1595.⁷⁶ It is likely that this is an Ayrshire surname. He had appeared before the Privy Council at Holyroodhouse on 20 March 1588 acting as the procurator of John Roy MacLean who was the kinsman of John MacLean of Lochbuy⁷⁷ and on 22 March of the same year as the procurator of Duncan MacDougall fear of Dunollie.⁷⁸ He witnessed to a bond of caution by Lachlan MacLean of Duart, subscribed at Edinburgh and Stirling on 13 and 14 June 1596.⁷⁹ In 1621 a charter of wadset by Sir John MacDougall of Dunollie in favour of John MacDougall of Ragray dated at Kilmichell in Glasrie and Dunollychtmoir on April 11 and 30 was witnessed

by Sir John's servitors John Mekiljohnne and James Menteith. Both names suggest that they were incoming Scots speakers.⁸⁰ On 20 November 1598 the servants of Sir James Stewart of Ballchane who witnessed a contract with Sir Duncan Campbell of Glenorchy were George Leslie, Andrew Bonar and Robert Gray.⁸¹ By the later 16th century many West Highland and Island chiefs were therefore employing servitors who were not local and whose names indicate that they were Lowlanders but who may have had their origins in geographical areas bordering the Gaidhealtachd and so probably possessed bilingual skills.

That these incomers represented a substantial grouping even within the society of the Western Highlands by the early 17th century is indicated in a description by a Catholic missionary to the Western Highlands and Islands at this time. The report by Cornelius Ward of 19 August 1626 referred to "one of the Anglo-Scots, few of whom become catholics: the man in question was secretary to MacNeil of Barra".⁸² The term "Anglo-Scot" a translation of the Latin "Anglo-Scoto" of the original reports is clearly his term for Lowlanders who were living and working in the Highlands. According to Ward they made up a specific group within Highland society at the time, implying that there were significant numbers of them in the western Highlands and Islands. That a relatively minor chief like MacNeil of Barra required a Scots speaking secretary to look after his local legal affairs by 1626 shows that the increased pervasiveness of central government was resulting in a new group of legal servitors being employed by chiefs throughout most of the Highlands and Islands.

The century after 1550 witnessed a transformation in the local legal personnel of the Highland and Island chiefs; the employment of men who were not kinsmen, who did not belong to hereditary professional families, who were Lowlanders speaking Scots or who were bilingual. This marked a significant break with the past and the principal

reason for this was the increasingly close relationship between the chiefs and Lowland society occasioned by the greater power of the Scottish central government. It seems that the employment of incomers by the chiefs continued on into the later 17th century and was a subject which aroused local resentment. Mr James Fraser, minister of the parish of Wardlaw and author of a genealogical history of the Frasers of Lovat written in the later 17th century, made the following comments on the subject:

It was the late Lord Lovats observe that it was the preposterous practice of the nobility in the north, especially Seaforth and Lovat, to bring in strangers to be their servants, and get that mony which our kinsmen should have.⁸³

Fraser's particular anger was reserved for the meteoric rise of Duncan Forbes of Culloden who he tells us "was the Laird of Strachin's pantry boy, and brought him north as his servant".⁸⁴ The Laird of Strachin was a kinsman of Fraser of Lovat.

By the later 17th century some Highland chiefs were employing English servants. Kenneth Earl of Seaforth had a servitor called Gilbert Pickering in 1663.⁸⁵ Richard Curtis was a servant of John Campbell younger of Glenorchy in the 1660s.⁸⁶ James Winchester was a servitor of the Marquis of Huntly in the 1680s⁸⁷ and Joseph Hedges was a servant of John Lord Glenorchy in the 1690s.⁸⁸ These surnames do not appear to be Scottish and the individuals were probably recruited when these men spent time at Court in England. This is an aspect of the anglicisation of the Highland elite which has already been discussed.⁸⁹

Another group of lawyers who worked in the locality need to be considered: those lawyers who worked in the major burghs near the Highlands. In the period from c1550 to 1700 a string of burghs near the Highlands acted as a focus for the legal activity of

some of the Highland chiefs. The burghs also acted as important social centres where the Highland and Island elite could meet each other and as economic focal points where the surplus of Highland estates could be sold. The burghs of particular importance in this context were Tain, Dingwall, Chanonry of Ross, Inverness, Perth, Stirling, Dumbarton and Rothesay. Of these perhaps Inverness and Perth were the most important as social and business centres for the Highland chiefs.

The role of Inverness as an important centre for the legal business of the Highland chiefs can be followed by examining the careers of a few of the notaries and writers who worked there in the period from c1550 to 1700. There is evidence of a few notaries public based in Inverness in the period from c1550 to 1600. Mr Martin Logie, was active as a notary in the burgh from the 1560s until at least 1590. In 1563 he was sheriff clerk of Inverness⁹⁰ and on 5 May 1565 he acted as procurator for Alexander Chisholm of Cromer in the burgh court in a case against John Robertson burgess of Inverness.⁹¹ In 1590 he took the confession of Cristiane Roise for witchcraft in the famous witchcraft case that must have rocked society in the North at the time.⁹² Mr Martin Logie was the father of the Edinburgh writer James Logie who acted as a legal agent for a large number of Highland clients in the early 17th century.⁹³ John Gibson was another notary based in Inverness in the 16th century. He was parson of Unthank and on 23 December 1569 was elected as one of the burgh clerks along with sir John Nicholson vicar of Lagane.⁹⁴ He appears to have been involved in legal work for a number of the chiefs and clan gentry of Inverness-shire and his work involved him travelling throughout the region: for example to Huntly on 27 June 1568 to witness a bond by the Earl of Huntly⁹⁵, to Inverness on 15 June to produce Letters of Reversion⁹⁶ and to Ballachastell on 23 February of the same year where he was appointed a procurator for Patrick Grant of Ballindalloch to register an obligation.⁹⁷ It is noticeable that these three notaries, although very likely local men, did not belong

to the kindreds of any of the neighbouring chiefs and so were able to offer their legal skills to a cross section of them.

In the period from 1600 to 1650 there is evidence of a couple of notaries functioning in Inverness. The witnesses of a bond dated 19 January 1627 were Alexander Logane notary public and burgess of Inverness and Robert Munro writer in Inverness.⁹⁸ Robert Munro may be the same as the Robert Munro who is described as clerk of the diocese of Ross and notary public in an instrument of sasine of 2 November 1615.⁹⁹ Alexander Logane worked for a number of clients in the early 17th century. In 1625 in a notarial instrument he had drawn up he is described as clerk of the diocese of Ross.¹⁰⁰ On 18 June 1626 he witnessed a charter dated at Keppoch by the Captain of Clanranald along with John Logane in Inverness who was presumably a kinsman.¹⁰¹

In the later 17th century there is evidence of a larger number of lawyers working in Inverness. Alexander MacIntosh was a writer in Inverness in the 1660s and 1670s who had become commissary clerk of Inverness by 15 March 1676.¹⁰² John Munro worked as a writer there in the 1670s and 1680s.¹⁰³ He received 100 merks from MacLeod of Dunvegan in 1679 for expenses incurred in an action against MacNeil of Barra.¹⁰⁴ He may have begun his working life as a writer in Fortrose being described as such in an instrument of sasine of 25 February 1663.¹⁰⁵ Another Inverness lawyer was Andrew Monro who was commissary clerk of Inverness in 1660.¹⁰⁶ He then seems to have moved to work in Fortrose as an Andrew Munro notary public in Fortrose witnessed a contract of wadset on 12 March 1663.¹⁰⁷ John Fraser was working as a writer in Inverness in the 1660s¹⁰⁸ and Hugh Fraser is referred to in the Register of the Privy Council of 23 December 1679 as "the deceased Hugh Fraser, writer in Inverness".¹⁰⁹ Other Inverness lawyers of the later 17th century included Andrew MacPherson¹¹⁰, Hector Fraser¹¹¹ and Andrew Sutherland.¹¹² There was

certainly an expansion in the number of lawyers working in Inverness in the later 17th century. It is also noticeable that these lawyers belonged to the major Highland kindreds surrounding Inverness and so kinsmen of the chief were moving into the local legal scene in the same way that they moved into the legal profession in Edinburgh in the later 17th century.

The later 17th century saw the appearance of a new group of local lawyers in the Highlands. In 1659 David Munro and Hector Munro are both described in a document as "writers in Thurso" and Mr George Munro is described as a notary public in Thurso.¹¹³ Donald MacKay is described as a writer in Thurso in 1678, a notary public in Skeray in 1671 and 1683, and notary public in Strathtung in 1686.¹¹⁴ There was a writer in Logierait in the 1670s called Thomas McNab who is seen writing an assignation by Robert Campbell of Glenlyon on 11 November 1679¹¹⁵ and a Duncan Campbell was described as a writer in Glenlyon in the same document. In the 1680s there is evidence of William Cowan notary in Crieff witnessing a document of 7 May 1687¹¹⁶ and Thomas Gair notary public in Nigg in 1685.¹¹⁷ In 1690 a man with the surname McCulloch was described as a writer in Moidart: "From McCulloch wreatter in Maydert for £40 for my paines in infefting the Lady McLeod in her jointure Dec 6 1690"¹¹⁸ In the 1690s Andrew MacPherson is described as notary public in Ruthven¹¹⁹ and notary public in Badenoch.¹²⁰ Previously notaries and writers had been attached to the major burghs near the Highlands or had been based within the households of the chiefs. The later 17th century witnessed the emergence of a new group of Highland lawyers who worked in the smaller settlements like Thurso or Crieff or in rural areas like Moidart or Glenlyon. This is an indication of the growth of these small settlements in the later 17th century where some level of population growth and economic development, particularly the growth of the cattle trade, was encouraging the use of written contracts and other legal documents which would

require the employment of a lawyer. It is also a reflection that more Highlanders were making use of the law because more of them had a secure interest in the land through the extension of wadsetting. The demand was being met by a small group of lawyers based in the Highlands. No further information has been found about the lives of these individuals except for the references in the documentation given above and so it is not possible to say very much about who they were or about the kind of work they undertook. It may have been the case that they were part-time lawyers who, having a basic training in the work of a writer, also gained a living from renting land in the area in which they practiced. It may be suggested that by the later 17th century there was a small group of farmer/lawyers working in the Highlands.

Having traced the development of the relationship between Highland and Island chiefs and their local lawyers in the period from c1550 to 1700 it is now necessary to examine some of the details of this relationship.

The relationship involved specific obligations on both sides. An interesting description of the relationship between master and servitor is given in a memorial of c1564 by Mr Fewler who was an agent of Mathew earl of Lennox: "He is my kynisman, and I wishe him well, but I love my lorde better, whom I have more dearlie bought nor all my kin".¹²¹ In return for loyal service the legal agent would expect loyalty and support from the Lord. For example in 1586 Mr Andrew Abercromby of Pettelpie, a servant of the Earl of Atholl was denounced a rebel for failing to have payed a debt but was protected by the Earl.¹²² The close relations between chief and local legal servitor could, however, also break down into acrimonious disagreement as was the case with Sir Duncan Campbell of Glenorchy and his notary public Gavin Hamilton. This is discussed in more detail in a later chapter which examines the career of Hamilton.¹²³

A crucial aspect of the relationship were the fees paid to the legal servitors. Testaments of chiefs provide details of the fees that were paid by Highland chiefs to their local notaries and legal servitors. James Menzies of that Ilk was paying a yearly fee of £26 13s 4d to his servant Mr Alexander Menzies, who was clearly a legal servitor from his University education, at the time of his death in 1585.¹²⁴ Arthur Dingwall was paid £6 13s 4d for half a year's fee by Walter Urquhart of Cromartie who died on 28 February 1586.¹²⁵ In the legacy and latterwill of Urquhart it is stated that Arthur is to be left one of Walter's wild horses with the rest going to members of his family.¹²⁶ This was a mark of thanks for loyalty of service indicating that the relationship between chief and legal servitor could be a close one. Colin Lanstun and George Fraser were the highest paid of the servitors of Patrick Grant of Ballindalloch, each receiving £10 for a year's fee, at the time of his death on 8 September 1586.¹²⁷ The testament of Sir James Campbell of Ardkinglass, who died on 20 February 1590, included a series of servant fees, with the best paid being £60 each to George Balfour and Alexander Duthall.¹²⁸ John Grant of Freuchy died on 2 June 1585 and his testament indicates that half year's fees were owing to John Grant of £10, to Mr William McGregor, David Clune, Harry Gray and Thomas Scotland of £6 13s 4d.¹²⁹ The testament of the Earl of Atholl who died in 1579 indicates that his legal servitor Mr Andrew Abercromby was paid £42 13s 4d.¹³⁰ It is stated in the testament that the sum was paid in victual. Colin Campbell of Glenorchy's testament shows that at the time of his death on 11 April 1583 Mr George White and Gavin Hamilton were both being paid £40. The rest of the servants of Campbell of Glenorchy were paid relatively highly compared to other chiefs, encouraging loyalty to the House of Glenorchy.¹³¹ Colin MacKenzie of Kintail was paying £66 13s 4d to John Irving and £47 to Mr John MacKenzie at the time of his death on 19 June 1594.¹³² William Lauder the servant of John Campbell of Cawdor was paid 40 merks of yearly fee in 1591.¹³³ In 1606 MacIntosh of Dunnachton was paying his legal servitor Malcolm Ego 90 merks.¹³⁴

CONCLUSIONS

The relationship between the Highland elite and their local lawyers in the period before 1550 was considered first. The discussion focused on two distinct traditions; the Gaelic hereditary legal profession and the notaries public. It was argued that the final collapse of the Lordship of the Isles in the middle of the 16th century marked the end of the Gaelic legal tradition and as a result the *breitheamh* makes no appearance in the history of the relationship between chiefs and local lawyers in the period after c1550. The Lords of the Isles employed notaries public and legal secretaries as far back as the 15th century who were operating within the context of Scottish feudal law. These individuals were churchmen, some were members of hereditary professional families, some were kinsmen and others seem to have been incomers who may have spoken both Scots and Gaelic. Other chiefs in the Highlands were also employing the services of notaries public before 1550. For some chiefs they tended to be churchmen and members of hereditary professional families; for others they were members of the church who were employed on an ad hoc basis.

A significant change occurred in the nature of local lawyers after 1550. Throughout the Highlands and Islands incoming Scots speakers took over positions of importance in the administration of the chiefs' legal affairs as the legal servitors and notaries public of these chiefs. Many of these individuals had their origins in areas bordering the Highlands and it seems likely that they spoke Scots and Gaelic making them ideally suited for employment by the chiefs. After 1550 chiefs were more likely to employ full time notaries as members of their households. It has been suggested that the main

reason for this change was the increased pervasiveness of the central government during the 16th century. It has also tentatively been suggested that economic development in the Highlands in the later 16th century involved closer links with the Lowlands and so a requirement to have better organisation in estate and legal affairs. The discussion of the development of this relationship has revealed the kind of work that local lawyers carried out for the chiefs in the Highlands and Islands in the period from c1550 to 1700.

The role of the burghs which bordered the Highlands has also been discussed and their importance as legal centres for the chiefs has been highlighted. By the later 17th century many of the lawyers who worked in these burghs were members of Highland kindreds and so the lawyer/chief relationship in the context of the local burghs was more likely to have been governed by kinship in the later 17th century than it was in the 16th century in the same way as the relationship between chiefs and the Edinburgh legal profession.

In the later 17th century a further group of Highland lawyers appear in the sources who are not resident in the major burghs close to the Highlands or employed in the households of the chiefs. It has been argued that the appearance of these lawyer/farmers is a reflection of development of the Highland economy in the later 17th century, caused by the growth of the cattle trade and the increased demands for legal services occasioned by the extension of landholding within the Highlands at this time.

¹ Fraser, *Sutherland*, ii, 355.

- ² An exception is the chapter on the servants of Anne Duchess of Hamilton in Rosalind K. Marshall, *The Days of Duchess Anne, Life in the Household of the Duchess of Hamilton 1656-1716*, (London, 1973), 62-82.
- ³ SRO Commissary Court Records, CC 8/8/12 f41-7.
- ⁴ *Lords of the Isles*, xliiii.
- ⁵ Derick S. Thomson, "Gaelic Learned Orders and Literati in Medieval Scotland", *Scottish Studies*, xii, 1968, 57-75.
- ⁶ *Ibid.*, 60.
- ⁷ *Ibid.*, 60.
- ⁸ Ronald Black, "A Gaelic Contract of Lease, c1603x1616", in Miscellany ii, *Stair Society*, (1984), 130.
- ⁹ John Bannerman, "The Lordship of the Isles", in Jennifer Brown(ed.), *Scottish Society in the Fifteenth century*, (London, 1977), 228.
- ¹⁰ *Lords of the Isles*, xliii, and no.47.
- ¹¹ *Ibid.*, xiiv and nos 63 and 64.
- ¹² *Ibid.*, xliv and no.119.
- ¹³ *Ibid.*, xliv.
- ¹⁴ Gordon, *Earldom of Sutherland*, 268.
- ¹⁵ Monro, *Western Isles*, 57.
- ¹⁶ APS, ii, , 252, 247
- ¹⁷ RPC, first, x, 27, for all the statutes, *Ibid.*, 26-30.
- ¹⁸ Gordon Donaldson, *Scottish Historical Documents*, (Edinburgh, 1974), 177-8.
- ¹⁹ Nerys Patterson, "Gaelic law and the Tudor conquest of Ireland: the social background of the sixteenth-century recensions of the pseudo-historical Prologue to the Senchas mar", *Irish Historical Studies*, xxvii, no.107, May 1991, 193-215.
- ²⁰ John Durkan, "The Early Scottish Notary", in *The Renaissance and Reformation in Scotland*(ed Ian B. Cowan and Duncan Shaw), (Edinburgh 1983), 23.
- ²¹ *Lords of the Isles*, 272.
- ²² John Bannerman, *The Lordship of the Isles*, 234-5.
- ²³ *Lords of the Isles*, 249.
- ²⁴ *Ibid.*, 249.
- ²⁵ *Ibid.*, 269.
- ²⁶ *Ibid.*, 273.
- ²⁷ *Ibid.*, 255.
- ²⁸ *Ibid.*, 276-77.
- ²⁹ *Ibid.*, 272.
- ³⁰ *Ibid.*, 254.

- ³¹ Ibid., 252.
- ³² Ibid., 253.
- ³³ MacGregor, *Political History*, 253.
- ³⁴ Ibid., 253.
- ³⁵ Fraser, *Sutherland*, iii, 41-109.
- ³⁶ Fraser, *Grant*, iii, 44-82.
- ³⁷ Ibid., 82-3, 88-89, 94-6, 102-3.
- ³⁸ *The Mackintosh Muniments*, 1-23.
- ³⁹ *Munro Writs*, 8-18.
- ⁴⁰ Donald E. Meek and James Kirk, "John Carswell, Superintendent of Argyll: a reassessment", *Records of the Scottish Church History Society*, xix, (1975), 1-22.
- ⁴¹ Ibid., 5.
- ⁴² Ibid., 5-6.
- ⁴³ Ibid., 8-9.
- ⁴⁴ MacGregor, *Political History*, 249.
- ⁴⁵ Ibid., 253.
- ⁴⁶ Ibid., 254.
- ⁴⁷ SRO Bread. Muns., GD 112/2/135/12.
- ⁴⁸ RPC, first, i, 301.
- ⁴⁹ *Infra*, 138-9.
- ⁵⁰ MacGregor, *Political History*, 255.
- ⁵¹ *Infra*, 185-94.
- ⁵² SRO Bread. Muns., GD 112/2/81/10.
- ⁵³ Ibid., GD 112/2/111/3.
- ⁵⁴ Ibid., GD 112/2/94/15.
- ⁵⁵ Ibid., GD 112/ 1/341.
- ⁵⁶ RPC, first, v, 302.
- ⁵⁷ Ibid., first, vi, 79.
- ⁵⁸ Ibid., first, vi, 176, 189.
- ⁵⁹ *Clan Campbell*, viii, 231.
- ⁶⁰ SRO Bread. Muns., GD 112/39/33/23.
- ⁶¹ Ibid., GD 112/2/6/35.
- ⁶² RPC, first, vi, 213-4.
- ⁶³ Ibid., first, vi, 484.
- ⁶⁴ Ibid., first, vi, 507.

- ⁶⁵ *Taymouth Bk.*, 250, 251-2.
- ⁶⁶ *Highland Papers*, i, 175-8, 189.
- ⁶⁷ Fraser, *Grant*, iii, 103-4, 104-5, 112.
- ⁶⁸ The last document he witnessed in the documents published by Fraser is dated 23 July 1606, Fraser, *Grant*, iii, 203-4.
- ⁶⁹ Fraser, *Grant*, iii, 170.
- ⁷⁰ SRO Commissary Court Records, CC 8/8/17, f81.
- ⁷¹ Fraser, *Grant*, iii, 201.
- ⁷² *Ibid.*, iii, 209.
- ⁷³ RPC, first, iii, 548.
- ⁷⁴ SRO Commissary Court Records, CC 8/8/29 f35.
- ⁷⁵ Fraser, *Grant*, iii, 204.
- ⁷⁶ John Bannerman, "Literacy in the Highlands", *The Renaissance and Reformation in Scotland*, (eds.) Ian B. Cowan and Duncan Shaw, (Edinburgh, 1983), 218.
- ⁷⁷ RPC, first, iv, 263.
- ⁷⁸ *Ibid.*, first, iv, 264-5.
- ⁷⁹ *Ibid.*, first, v, 740-1.
- ⁸⁰ SRO Bread. Muns., GD 112/2/9/9.
- ⁸¹ *Ibid.*, GD 112/2/147/3.
- ⁸² Cathaldus Giblin(ed.), *Irish Franciscan Mission to Scotland, 1619-1646*, (Dublin, 1964), 87.
- ⁸³ *Chron. Frasers*, 511-12.
- ⁸⁴ *Ibid.*, 512-13.
- ⁸⁵ SRO Register of Deeds, RD2/10, 67-9.
- ⁸⁶ SRO Bread. Muns., GD 112/2/2/6.
- ⁸⁷ Fraser, *Sutherland*, iii, 213-14.
- ⁸⁸ SRO Bread. Muns., GD 112/2/1/11.
- ⁸⁹ *Supra*, 42-4.
- ⁹⁰ Fraser, *Grant*, iii, 128-9.
- ⁹¹ *Records of Inverness*, i, 123.
- ⁹² Pitcairn, *Trials*, i, 191-201.
- ⁹³ *Supra*, 89-90.
- ⁹⁴ *Records of Inverness*, i, 182.
- ⁹⁵ *MacKintosh Muniments*, no.89, 28-9.
- ⁹⁶ *Ibid.*, no 88, 28.

- 97 Fraser, *Grant*, iii, 135-6.
- 98 RPC, second, i, 505.
- 99 *Munro Writs*, no.158.
- 100 *Ibid.*, 179.
- 101 *Book of Dunvegan*, i, 21.
- 102 *The Mackintosh Muniments*, no. 562.
- 103 RPC, third, xi, 362-3, and *Book of Dunvegan*, i, 241.
- 104 *Book of Dunvegan*, i, 241.
- 105 *Munro Writs*, no.224.
- 106 *Ibid.*, no.221.
- 107 *Ibid.*, no.225.
- 108 *Mackintosh Muniments*, nos. 521, 523.
- 109 RPC, third, vi, 371.
- 110 SRO MacPherson of Cluny Papers, GD 80/95, 80/99.
- 111 RPC, third, i, 52.
- 112 *Ibid.*, third, i, 52.
- 113 SRO Reay Papers, GD 84/20/7B
- 114 *Ibid.*, GD 84/22/4B, 84/22/6B, 84/22/7B, 84/25/3.
- 115 SRO Bread. Muns., GD 112/2/8/20.
- 116 *Ibid.*, GD 112/2/8/39.
- 117 *Old Ross-shire*, i, 413.
- 118 *Book of Dunvegan*, i, 179.
- 119 SRO MacPherson of Cluny Papers, GD 80/247, 80/278.
- 120 *Ibid.*, GD 80/ 276.
- 121 Fraser, *Lennox*, ii, 250.
- 122 John, 7th Duke of Atholl, *Chronicles of the Atholl and Tullibardine Families*, (Edinburgh, 1908), i, 46.
- 123 *Infra*, 164-173.
- 124 SRO Commissary Court Records, CC 8/8/24, f312.
- 125 *Ibid.*, CC 8/8/20, f203.
- 126 *Ibid.*, CC 8/8/20, f204.
- 127 *Ibid.*, CC 8/8/17, f191-2.
- 128 *Ibid.*, CC 8/8/22, f362.
- 129 *Ibid.*, CC 8/8/17, f81.
- 130 *Ibid.*, CC 8/8/8, f251.

¹³¹ Ibid., CC 8/8/13, f136.

¹³² Ibid., CC 8/8/29, f35.

¹³³ Ibid., CC 8/8/24, f160.

¹³⁴ Ibid., CC 8/8/43, f181.

CHAPTER 4: THE CAMPBELLS OF GLENORCHY AND THE EDINBURGH LEGAL PROFESSION

This chapter will illustrate the relationship between Highland Chiefs and the Edinburgh legal profession by focusing on one particular Highland kindred, the Campbells of Glenorchy, and follow the development of this relationship from c1550 to 1700. The Campbell of Glenorchy family records (the Breadalbane Muniments), especially the large collection of letters to and from the Glenorchy chiefs, allow us to trace the relationship between chief and Edinburgh lawyer from the later 16th century in more detail than is possible for any other Highland or Island kindred. An analysis of the relationship between Sir Duncan Campbell of Glenorchy and his legal servitor Gavin Hamilton, who worked for him in the Highlands, can be found in another chapter.¹

The Campbells of Glenorchy were the most powerful cadet branch of the Campbells Earls of Argyll and their originator was Colin Campbell the younger son of Duncan "the knight of Lochow", who on 20 October 1432 was given the 80 merklands of Glenorchy and other lands by his father and who extended the family landholdings significantly by the time he died on 24 September 1480.² Sir Duncan Campbell, the second Laird of Glenorchy extended the landed wealth of the family before being killed at Flodden in 1513. The first half of the 16th century was a period of consolidation with little territorial expansion under Sir Colin, Duncan and John the third, fourth and fifth lairds. Colin Campbell succeeded as chief on the death of John on 5 July 1550.³

C1550 TO 1600

The relationship between Glenorchy chiefs and the Edinburgh legal profession in the years from c1550 to 1600 will be considered first. The later 16th century saw the Campbells of Glenorchy expanding to a position of total dominance within

Breadalbane, the geographical area between Argyll on the west and loch Tay on the east, and extending their landed empire into Strathearn and Menteith under the determined leadership of Colin and Sir Duncan the 6th and 7th lairds of Glenorchy.⁴ In his thesis MacGregor lists a number of factors that were involved in this successful expansion: "loyalty to the house; a well-honed opportunistic instinct to strike when others were at their most vulnerable; rigorous application of the available legal mechanisms; and, if necessary, a willingness to go beyond the law and use violence".⁵ Astute financial management of their estates should be added to this list for all of the territorial expansion of the later 16th and early 17th century which can be followed in the Black Book of Taymouth was by purchase, involving very large outflows of money which was not being financed by any extravagant levels of borrowing. The extensive acquisitions of land by Sir Colin and Sir Duncan can be followed in the Black Book of Taymouth.⁶ Considerable sums were also spent on building and extending Campbell of Glenorchy residences, estate improvements and tochers. For example Sir Duncan built the castle of Finlarig and "decored the same inwardlie with pavement and paintrie" at a cost of £10,000, the tower of Achallader cost 1000 merks and 5000 merks was spent on "ane greit howss in Benderloch",. A house built in Lorne which was finished in 1609 cost £10,000 and work was also carried out on the House of Lochdochart and repairing the castle of Kilchurn at this time.⁷ In 1608 Sir Duncan spent 10,000 merks on work "in stopping of the water of Tay frae destroying thee place and zardis of Balloch".⁸ Tochers were also a considerable expense: 8000 merks when Sir Duncan's sister Marie married the Earl of Menteith, 5000 merks when his sister Annas married Campbell of Ardkinglass, 7000 merks when his eldest daughter Margaret married Menzies of Weem and 17,000 merks when his daughter Jeane married Campbell of Cawdor.⁹ At the time of his death in 1631 Sir Duncan had debts of 41,250 merks¹⁰; a relatively small amount when compared with the level of expenditure of the previous 48 years when he had been Laird of Glenorchy. These

figures surely indicate that Sir Duncan possessed large sums of cash which he was investing in land. It is not entirely clear where this money was coming from but the most likely source was the surplus of his own lands; an indication of the productive nature of the estates of the Southern Highlands during the later 16th and early 17th century and of the relative stability and peacefulness on these estates allowing economic development.

In the period from c1550 to 1600 there is not a great deal of evidence which relates to the relationship between Glenorchy chiefs and Edinburgh lawyers, although we know that Sir Duncan Campbell of Glenorchy was paying a yearly pension of £10 to the advocate Mr Oliver Colt between the years 1592 and 1615.¹¹ One of Colt's discharges for his pension stated that it had been "Grantit be the said noble lord... to me in lyfrent for all the dayes of my lyfyme".¹² Colt had become a member of the faculty of Advocates in 1573 and was the eldest son of Blaise Colt, a Perth burghess.¹³ In 1579 he was sheriff-depute of Edinburgh.¹⁴ The Perth connection linked him with the Campbells of Glenorchy who owned land in Perthshire and had a residence in the burgh of Perth.¹⁵ On 14 January 1586 Colt witnessed a bond by Duncan Campbell of Glenorchy in which Duncan bound himself not to trouble tenants of Patrick Lord Drummond¹⁶ and this seems to be the earliest date that we can see Colt working for the Campbells of Glenorchy. On 25 May 1587 when he presented a bond for registration in the Register of the Privy Council for Duncan Campbell of Glenorchy he is described as Duncan's procurator.¹⁷ The relationship with the Glenorchy family did not run entirely smoothly, however, since in 1610 Colt was forced to raise a case against Sir Duncan in the Court of Session for non payment of his pension.¹⁸

Mr Oliver Colt was also working for other clients at this time. They included Duncan MacDougall feuar of Dunolly for whom Colt acted as a procurator before the Privy

Council on 15 August 1588.¹⁹ In 1603 Campbell of Glenlyon borrowed 100 merks from Colt.²⁰ The Campbells of Glenlyon were a cadet branch of the Campbells of Glenorchy and so working for Sir Duncan Campbell of Glenorchy may have cemented relations between Colt and this kinsman of Sir Duncan. In a letter dated 5 January 1591 from Lord Seton to Sir Patrick Waus of Barnbarroch, a senator of the College of Justice, Seton described Colt as his "procurator and servant" indicating that he was also working for this Scottish nobleman and continued: "Mr Olyver Colte, hes presentlie ane actioun of his awin of importance depending befor your (lo), quhilk he assuris me to be verrie Just and equetable in the selff, And thairfor I will pray your (lo) to be as cairfull for him in that caiss, as ye wald be foir my awin action".²¹

Unfortunately no letters to or from Colt survive in the Breadalbane Muniments. Since there are a considerable number of letters surviving from this period²² it may be suggested that the relationship with Colt was not as close as relations were to become between Glenorchy chiefs and Edinburgh lawyers in the 17th century when large numbers of letters were written and survive in the family records. It also may suggest that communication with Edinburgh lawyers in the later 16th century may have involved Sir Duncan or members of his family, or his servitors, making journeys themselves to Edinburgh to confer with and employ lawyers and that this process did not involve written communication.

Other evidence for the relationship between Glenorchy chiefs and Edinburgh lawyers during this period comes from the Acts and Decrees of the Court of Session where it is possible to identify the advocates who represented Colin Campbell of Glenorchy or Sir Duncan before the supreme civil court. Cases involving the Campbells of Glenorchy at the Court of Session can be found in vol.viii of "Clan Campbell" which indicates the volume of the Acts and Decrees of the Court of Session in which the

case can be found.²³ The advocates who represented Colin or Sir Duncan Campbell of Glenorchy can be found by examining the action in the Acts and Decreets. Such evidence shows that in cases going before the Court of Session the Campbell of Glenorchy chiefs were represented by Oliver Colt and other advocates although on a number of occasions the Glenorchy chiefs failed to turn up at the court or employ any advocate to represent them. For example in a case raised by Andrew Toscheoch of Monievairst on 11 February 1573 against Colin Campbell of Glenorchy the record states that Colin was "oftimes callit and not comperit".²⁴ He failed to turn up at court himself or to organise representation by a lawyer. Sir Duncan Campbell of Glenorchy failed to attend court or to arrange legal representation in the following cases that were raised against him: by James Menzies of that Ilk in 1583, by Allan Baxter the sometime servitor of the late Colin Campbell of Glenorchy and his wife Katherine Ruthven in 1585 and by Patrick Drummond in 1598.²⁵ On all other occasions Sir Duncan was represented by advocates before the Court of Session. He made use of the services of a number of lawyers: Mr John Schairp appeared for him on 26 February 1589²⁶, Mr Thomas Craig on 27 May 1591 and on 22 February 1598²⁷, Mr John Moncreiff on 19 July 1595²⁸ and William Oliphant aiding Mr Thomas Craig on 22 February 1598.²⁹ However Mr Oliver Colt represented Sir Duncan on more occasions than any of the other advocates already mentioned confirming that he was probably the main legal agent in Edinburgh for the Campbells of Glenorchy in the later 16th century. He acted for the family with Mr John Schairp on 26 February 1589, with Mr John Moncreiff on 19 July 1595 and on his own on 5 February 1595 and on 12 July 1595.³⁰ By the 1590s Sir Duncan was making sure that if a case was raised against him he had arranged for an advocate to plead for him. This is a reflection of the rising power of the central government and so the status of the Court of Session in the later 16th century.

The Campbells of Glenorchy, therefore, employed a number of Edinburgh advocates in the period from c1550 to 1600 but it seems that by the 1590s they were using the services of one in particular, Mr Oliver Colt, who was provided with an annual pension for undertaking the family's legal work in the capital.

1600 TO 1650

This period saw the establishment of a close relationship between Sir Duncan Campbell of Glenorchy and the Edinburgh advocate Mr David Primrose who was to act as a legal adviser for the family from c1608 to c1642. A large number of his letters to Sir Duncan and to Sir Colin, Sir Duncan's son and successor, survive in the Breadalbane Muniments.³¹ Mr David Primrose was the eldest son of Henry Primrose a burghess of the Fife burgh of Culross. He graduated from Edinburgh University in 1602 and became a member of the Faculty of Advocates in 1609.³²

The connection between Sir Duncan Campbell of Glenorchy and the Primrose family went back to the 1590s. Henry Primrose, burghess of Culross, was one of the witnesses to a contract between Sir Duncan Campbell and Edward Ridheuch concerning a sale of lands to Sir Duncan which was registered in the Books of Council and Session on 8 July 1596.³³ Henry Primrose was also a guest at Finlarig, one of the main Campbell of Glenorchy residences, in March 1592.³⁴ In a letter of 24 March 1608 Mr David Primrose mentioned that his father had given him some writs, concerning a legal case between Sir Duncan and Andrew Toshoch of Monzie, which had been in his father's possession.³⁵ Such evidence is suggestive that Henry Primrose had some kind of business association with Sir Duncan and it was natural that Sir Duncan should recruit David Primrose to act as his legal agent.

David Primrose also worked for other Campbell clients. On 19 December 1616 he represented the 7th Earl of Argyll before the Privy Council³⁶ in a case brought against the Earl by Malcolm McDuffie requesting liberation from imprisonment. He acted as the procurator for Sir James Campbell of Lawers before the same court on 2 July 1618.³⁷ On 4 June 1630 he appeared for Duncan Campbell of Glenlyon in the Justiciary Court in a case brought against Campbell of Glenlyon by *Murdo McEane VcMurchie*.³⁸

Primrose also appeared for the young Laird of MacFarlane in the Justiciary Court on 6 June 1623 in a case of slaughter³⁹ and was one of the four advocates appointed by Charles I to represent the Earl of Airth at his trial in 1633.⁴⁰ Other clients whom he worked for included David Earl of Crawford and David Lindsay of Querrelhill acting as their procurator before the Privy Council on 11 November 1609⁴¹; the kin of the deceased John Grant of Carroun on 1 August 1629⁴² and for the Earl of Roxburgh in a case of adultery repleged to the Regality of Broughton on 3 November 1629.⁴³ David Primrose was employed by a wide range of Highland and Lowland clients although it is clear that he worked principally for the Campbell kindred in the Highlands. He did not receive, however, promotion to the Bench as a judge despite being a member of a family with important political connections. David's uncle James Primrose was clerk to the Privy Council from 1599 to 1640⁴⁴ and another uncle Archibald Primrose was an Edinburgh lawyer who became clerk of taxations and in conjunction with Archibald Campbell, brother of Campbell of Lawers, acted as one of the commissioners for receiving fines imposed on resettlers of the Clan Gregor.⁴⁵ Archibald Primrose was also a correspondent of Sir Duncan Campbell of Glenorchy and provided legal advice for him on a few occasions in the period from 1611 to 1614.⁴⁶ David Primrose did, however, obtain the position of clerk of the cocquet. On July 6 1609 he took a complaint to the Privy Council against John Brown, burgess of

Culross, the "late tacksman in the said office and now removed therefrom, refuses to deliver to complainer the registers, seals, and stamps of the said clerkship".⁴⁷ The family connections of David Primrose could prove very useful to his clients as for example in 1611 when Sir Duncan Campbell of Glenorchy applied to James Primrose as clerk of the Privy Council to quickly secure from him a commission to execute a MacGregor.⁴⁸

The relationship between the chiefs of Glenorchy and the Primrose family went beyond the narrowly professional. It has already been shown that David Primrose's father, Henry Primrose, was one of the guests at Finlarig on Loch Tay in 1592.⁴⁹ Mr David Primrose was at Finlarig with his brother for three nights in May 1621⁵⁰ and was invited again in 1625 but was unable to attend because of the funeral of Sir George Bruce of Culross who was probably an associate given that David Primrose's father was a Culross burgess.⁵¹ It is clear that a close social relationship had developed between the chiefs of Glenorchy and members of the Primrose family and it seems likely that similar social relations were built up between other Edinburgh lawyers and other Campbell chiefs at this time.

The chiefs of Glenorchy were also eager to encourage other members of the Edinburgh legal profession to spend time in the Highlands. An undated draft letter to Lord Curriehill, President of the Court of Session from 1626 to 1633, survives in the Breadalbane Muniments: "May it pleis your lord... to cum to the Moutens here where I dwell".⁵² Lord Curriehill was also encouraged to bring with him a group of Edinburgh lawyers including Mr Patrick Nisbet, Mr David Primrose, Mr Gilbert Primrose and Mr Robert Bruce. Sir Duncan or Sir Colin no doubt hoped that after lavishly entertaining the Lord President cases might tend to run their way in the Court of Session. There is not any definite evidence to indicate whether or not Lord Curriehill received his

invitation or took it up and came to the Highlands. However, it was common practice at this time to attempt to put pressure on judges. At this time a relationship also existed with Sir Thomas Hope of Craighall. In a letter from Edinburgh of 13 January 1632 Sir Thomas wrote to Sir Colin Campbell of Glenorchy the following: "I am becom ane planter, and I heir ye haif the best chirrey treis in the kingdome".⁵³ He continued by asking for a supply of seeds.

That leisure activities such as fishing were part of these Highland trips is evident from the following extract from a letter of 10 August 1636 from Edinburgh by Archibald Campbell, brother of Campbell of Lawers, to Sir Colin Campbell of Glenorchy informing him that a group of Edinburgh lawyers intended to visit him in the Highlands:

Sicing that Sir Lues Stewart, young Durrie, Mr Patrick Nisbett, Mr David Prymrois and I intend, godwilling, to be with you sume day about the letter end of the nixt weik....I will desyre you to have your fisher.... albeit it be not the seassone of the yeir, yit it will the best spourt we sall have.⁵⁴

Such evidence shows us that the "middling sort" were already taking Highland leisure breaks in the 1620s and 1630s although such visits would also be used to cement business relations and to discuss ongoing legal cases. It is also an indication of the relative peacefulness of the Campbell of Glenorchy lands during this period before the storm of the Covenanting Wars of the 1640s. It seems very unlikely that Edinburgh advocates would have travelled far into the Highlands if they had any major concerns about their safety. Indeed in his poem "Iorram Do Gille Eathain Dhubhaird" (An Oar-Song to MacLean of Duart) Iain Lom castigates the Campbells for spending their time fishing: "Gu biaradh sliochd Dhiarmaid, Prasgan salach an iasgaich"⁵⁵ (To mortify the descendants of Diarmid, the foul rabble whose occupation is fishing). From the Bard

of Keppoch's viewpoint fishing might appear a dishonourable activity but from another standpoint it is a reflection of the success of Campbell lordship which provided stability for the pursuit of economic development and leisure. This description of the Campbells has a further meaning, however. In a letter of 1615 to the Bishop of the Isles Sir James MacDonald of Islay described the Campbells as a kindred "wha crawis ever to fish in drwmly watters".⁵⁶ The implication being that the Campbells were corrupt political manipulators.

This close relationship between the chiefs of Glenorchy and the Primrose family was reciprocated by a member of the Glenorchy family staying in Edinburgh. Sir Duncan's son Patrick Campbell boarded with Mr David Primrose in Edinburgh in 1614. David Primrose received £143 from Sir Duncan "in compleit payment of the buird and hail expenss baithe in clain and uther wayir upon Patrick Campbell his sone during the time that the said Patrick Campbell remainit with me".⁵⁷

The letters from Mr David Primrose to Sir Duncan and Sir Colin reveal the kind of work that Primrose was undertaking for the family. They show that he was involved in a series of different legal cases. He was responsible for liaising with other lawyers to employ them on behalf of the family, overseeing the process of conveyancing and providing the chiefs of Glenorchy with news about events occurring in Edinburgh, at Court in England and international affairs.⁵⁸ Part of his reward was venison and wildfowl from the Glenorchy estates.⁵⁹

On 23 June 1631 Sir Duncan Campbell of Glenorchy died at Balloch at the age of 81 having been chief of Glenorchy for 48 years.⁶⁰ His death marked the end of a period of considerable expansion for the Campbells of Glenorchy in terms of landed wealth and influence and ushered in a period of stagnation and difficulties. That the extension

of landed power runs out of steam in the early 1630s is obvious if one compares the extensive list of acquisitions of land described in the "Black Book of Taymouth" under the chiefship of Sir Duncan with the lack of them under the chiefship of Sir Colin.⁶¹ The following two lairds were relatively old when they succeeded. Sir Colin was 54 when he became 8th laird in 1631 and his brother Robert was 61 when he became 9th laird on Colin's death in 1640.⁶² During the late 1630s and 1640s the rising level of indebtedness of the family and the difficulties that the management of such debt produced⁶³ contrasted with the successful expansion of the family under Sir Duncan in the later 16th and early 17th centuries.

After the death of Sir Duncan in 1631 Mr David Primrose continued to act as a legal adviser for Sir Colin and Sir Robert but the correspondence in the Breadalbane Muniments makes it clear that the position of principal legal agent in Edinburgh was taken over in the 1630s by Archibald Campbell, the younger brother of Sir James Campbell of Lawers. The first letter from Archibald Campbell to Sir Colin Campbell of Glenorchy is dated from Edinburgh 26 July 1631.⁶⁴ This represented a new departure in the organisation of the family's legal affairs in Edinburgh: the employment of a close kinsman as a permanent presence in the capital. Archibald Campbell's mother was Beatrix Campbell who was the half-sister of Sir Duncan Campbell of Glenorchy.

Little is known about Archibald Campbell's early life although it seems that he was brought up with the Campbells of Glenorchy. It is stated in the "Black Book" that "Laweris hous wald haive wraikitt in Laweris fatheris tyme, the laird of Glenorchy tuik in his mother, his breithrein, and sisteris in his hous, and saifit the hous of Laweris fra rowein and wraik".⁶⁵ Cowan states that he was a University graduate⁶⁶ but he did not use the title "Mr" although he may indeed have attended University and not graduated. In his early years he acted as bailie of Kintyre and commissary of Argyll⁶⁷ where he

no doubt built up a good practical knowledge of the functioning of the law. Around this time he seems to have been closely associated with the 7th Earl of Argyll for whom he acted as a procurator before the Privy Council on 12 March 1607 in a case against Harry Barskyming for recovery of debt⁶⁸ and on 24 November 1612 in a complaint by Argyll against William MacIntosh of Borlum for not delivering a captive MacGregor.⁶⁹ At some point he acquired the lands of Glencarradale in Kintyre and as a result is often called Archibald Campbell of Glencarradale. He later sold this land, however, as in 1623 he is referred to as "formerly of Glencharrodell".⁷⁰ On 22 July 1613 with Archibald Primrose the Edinburgh writer and uncle of Mr David Primrose he was appointed a commissioner for uplifting the fines imposed on resettlers of the Clan Gregor.⁷¹ As late as 1624 he and Archibald Primrose were attempting to force Sir John Grant of Freuchy to pay his fine by taking a case to the Court of Session.⁷² In 1614 he was appointed the agent for all those persons in the Highlands who had been put to the horn but who were now seeking pardons.⁷³ His early career therefore involved acting as an administrator of Highland affairs on behalf of the government.

A list of pensions of 29 November 1625 granted by James VI reveals that Archibald Campbell was awarded £500 yearly for his part in improving his Majesty's rents in Islay from 300 to 9000 merks yearly and for loyal service in the expedition against the MacDonald rebellion of 1614-15 which involved him travelling to Ireland to find cannon for the expedition.⁷⁴ Other rewards for loyalty included being presented with a monopoly for making red herring in 1615⁷⁵ and being made commendator of the lands of the priory of Strathfillan. In 1617 he took a case to the Court of Session against the heritors on the lands of the priory for not paying rents to him.⁷⁶

Documents printed in "Highland Papers vol. iii" reveal the active role undertaken by Archibald Campbell in the MacDonald rebellion of 1614-15. On 28 September 1614 Lord Binning wrote to his brother Mr Patrick Hamilton that "the bearer heirof Archibald Cambell having tane earnist travellis to move the Laird of Cadell to consent to accept the feu of Ila....he hes also persuaded Cadell to undertake the recouverie of Duneveg...whairwith I have thought fite to acquaint you to the effect you may give your friendlie concurrence to this gentilman in his affaires becaus I know him well affected to his Maiesties service".⁷⁷ During the expedition to Islay in 1614 he provided the government with detailed intelligence reports.⁷⁸

It would appear from his letters to Sir Colin Campbell of Glenorchy that in the early 1630s he settled down in Edinburgh and amongst other interests began to manage the affairs of the Campbells of Glenorchy.⁷⁹ At this time he also acted for the Second Earl of Haddington.⁸⁰ In a letter of 2 September 1640 his wife Elizabeth Napier informed Sir Colin Campbell of Glenorchy that Archibald Campbell was at Dunglass arranging the Earl's funeral. The Earl of Haddington and his two brothers had been killed in an explosion of a powder magazine.⁸¹ His broad experience over the previous thirty years and his connections with figures in the government and throughout society made him well qualified for the position of "legal agent" despite his seeming lack of a formal education in the law. He was the uncle of John Campbell of Lawers who became Lord Loudon through marriage in 1622, and later Earl of Loudon and Chancellor.⁸² Archibald Campbell's letters to Sir Colin Campbell of Glenorchy and Sir Robert survive in large numbers in the Breadalbane Muniments⁸³ and provide much information about the preoccupations of an Highland family in the 1630s and 1640s.

In the legal affairs of the family Archibald Campbell played a coordinating role in the same way that Mr David Primrose had done; overseeing much of the conveyancing work, liaising with the legal profession to seek advice on particular points of law and choosing advocates to represent Sir Colin or Sir Robert in the central courts.⁸⁴ He also, like Mr David Primrose, provided a great deal of news about what was happening in Edinburgh, at Court in England and in the international scene.⁸⁵ He was responsible for commissioning George Jamesone, the portrait painter, to undertake a number of paintings for Sir Colin. In a letter from Edinburgh of 25 October 1634 he wrote the following to Sir Colin: "Jamesone the painter will undertak your broids".⁸⁶ By the following March Jamesone had made good progress on the paintings as Archibald Campbell wrote to Sir Colin Campbell of Glenorchy on 15 March 1635 that "I can assure yow on my credit they are werie weill done and all as ye desyrit".⁸⁷

A considerable amount of Archibald Campbell's time was spent on lobbying activity in an attempt to secure a peerage for Sir Colin and this aspect of his work for the Glenorchy family is revealed particularly clearly in the correspondence in the Breadalbane Muniments. In their letters the peerage was referred to as Sir Colin's "particular". Archibald Campbell acted as a lobby agent for the house of Glenorchy, applying gentle pressure to members of the Court and advising Sir Colin when to write obsequious letters to figures of importance and what gifts to send them.

Sir Duncan Campbell of Glenorchy had been knighted by James VI in 1590⁸⁸ and had purchased a New Scotland Baronetcy in 1627 for 3000 merks.⁸⁹ By the 1630s it was felt by Sir Colin that the power and prestige of the family in the south west Highlands warranted a greater mark of status than this. The fact that Sir John Campbell of Lawers had through marriage become Lord Loudon was no doubt particularly galling since the Campbells of Lawers were a cadet branch of the Glenorchy Campbells and

relations between the two kindreds had been strained in the earlier 17th century. An interesting and significant change is evident between the chiefships of Sir Duncan Campbell of Glenorchy and his son Sir Colin. The chiefship of Sir Duncan was focused on the accumulation of land and power in the locality, while the chiefship of Sir Colin on obtaining a peerage from a distant monarch in London.

A scramble for honours became focused on Charles I's visit to Scotland for his coronation in 1633. On 18 May 1633 Archibald Campbell wrote to Sir Colin from Edinburgh to inform him about a meeting with Lord Lorne about Sir Colin's peerage. Lorne had assured him that he and the Earl of Morton would assist the Marquis of Hamilton "to move his majestie in yuir particular to have it done".⁹⁰

On 30 May 1633 there was hopeful news from Archibald Campbell in Edinburgh:

"The nobilmen that are to be create efter the Parliament as I am informed ar Lochinvar, your selff, Pitsligo, Sir Robert Douglas, Drum, all vicompts and sum utheris ar to be lordis quhais namis I kno not".⁹¹

Campbell continued by urging Sir Colin to come in person to Edinburgh and reminded him to send venison to the Earl of Morton.

Two days later on 1 June 1633 Archibald had further news for Sir Colin: "I have spokin at lenth with a deir freind....hie assris me hie hes seane your patent quhilk being onlie to be a Lord".⁹²

Archibald Campbell went on to advise Sir Colin to direct letters immediately to the Marquis of Hamilton, the Earl of Haddington, the Earl of Morton, Lord Loudon and

the Chancellor so that pressure for his peerage might be maintained. However, such efforts proved to be in vain for in the scramble for honours in 1633 Sir Colin was passed over. Towards the end of the year Archibald Campbell was still advising him that venison should be sent to the Marquis of Hamilton: "his lady makis me beleive thair is good hopis in your particular".⁹³ Again these hopes came to nothing. Seven years later, on 29 July 1640, Archibald Campbell wrote to Sir Colin to inform him about the continuing effort that was being made to secure a peerage for Sir Colin: "I cannot omit to tell yow that being at supper with his Excellence and speaking of you his Excellence inquyred at me what wald please you best to be sent frome him out of Ingland to you I schew his Excellence that a kynd letter with good newes wald be most acceptable to you".⁹⁴ Perhaps his age made him a less strenuous figure or his reluctance to go to court and actively lobby for himself, for the family certainly seem to have possessed sufficient land by the 1630s for such recognition. The family eventually obtained a title in the late 1670s when John Campbell the grandson of Sir Robert Campbell of Glenorchy, became Earl of Caithness after the line of the previous Earl had failed. The somewhat desperate tactics which were used to secure this title surely reflect the continuing sense of frustration felt by Glenorchy chiefs.⁹⁵ John Campbell quickly lost this title but was created first Earl of Breadalbane in 1681.⁹⁶

One reason for Sir Colin's failure to obtain his peerage in the 1630s may have been his lack of direct contact with the Court of Charles I in England, although he had made the journey himself to court before he became Laird of Glenorchy in 1628 at the direction of his father.⁹⁷ His father Sir Duncan had maintained at least two agents working for him at court in England after 1603. A letter of 26 October 1623 shows that Sir Duncan was paying a pension to James Douglas who appears to have been acting as a lobby agent for him. In this letter Glenorchy asked Douglas to remind the King of the troubles that the MacGregor kindred had caused in the past and the

problems that would ensue if the MacGregor kindred could reform around a revitalised chiefship; the son of the deceased John Dow MacGregor having made a trip to Court himself.⁹⁸ A number of letters in the Breadalbane Muniments make it clear that a man with the surname MacNaughtane was acting as an agent at court in England for Sir Duncan between the years 1623 and 1628.⁹⁹ This seems to have been Alexander MacNaughtane who on 16 November 1623 wrote to Sir Duncan from London offering to act as his agent at the English court.¹⁰⁰ As well as a source of communication with the King he provided news about affairs in England and on the Continent and was responsible for arranging the building of Sir Duncan's tomb in London in 1628.¹⁰¹ There is no evidence in the letters in the Breadalbane Muniments that Sir Colin Campbell of Glenorchy continued to maintain any of these direct contacts with the court in London. It was obviously easier to employ Scottish agents at the English court when they could gain access to James VI than it was to influence Charles I who had spent only a brief period of his life in Scotland. Besides, Sir Colin was already paying a substantial pension of 500 merks each year to Archibald Campbell his agent based in Edinburgh¹⁰² and probably thought that he was creating enough pressure through the letters and gifts to particular Scottish nobles.

The revolution against the rule of Charles I in Scotland which began in 1637-8 placed Sir Colin Campbell of Glenorchy in a dilemma; he did not want to do anything that might jeopardise his chances of being elevated to the peerage. He was therefore happy to remain in the Highlands and follow the advice of Archibald Campbell. The vital question, of course, was whether Sir Colin should sign the National Covenant. On 10 March 1638 Archibald Campbell first urged caution telling Sir Colin that "befoir ye put your hand to the new covenante lett me heir from yow for suche reassones as I sall schaw yow"¹⁰³ and then advised Sir Colin not to put his signature to the Covenant promising to explain his arguments for this at a meeting between the two of them.¹⁰⁴

In a letter from Edinburgh of 11 May 1638 Archibald Campbell told Sir Colin the following: "I have spokine to young Lawers quha hes promisit to me that ye sall not be urgit with the Covenant for sume tyme".¹⁰⁵ "Young Lawers" was the Earl of Loudon, one of the leading nobles in the Covenanting movement, and Archibald Campbell's nephew. In another letter dated Edinburgh 3 August 1638 Archibald had further news: "All our advocates hes laitlie subscriyveit the Covenant except Sr Lues Stewart and Sr Thomas Nicolsone....diverss of the Lords of Sessione hes lykwayes". This was now the time, according to Archibald Campbell, for Sir Colin to act: "thrför ye may be pleisit to writ to younge Lawers and desyre him to bringe the Covenant to you that ye may consider and subscribe the same".¹⁰⁶ Sir Colin Campbell of Glenorchy's political movements were being directed by the Edinburgh legal establishment on the advice of his Edinburgh based agent; a reflection of the importance and influence of the legal profession in Scottish society by the late 1630s and of the closer relationship between that profession and some of the Highland chiefs.

After Sir Colin's death at Balloch on 6 September 1640¹⁰⁷ Archibald Campbell continued to manage the affairs of Sir Robert Campbell of Glenorchy who had succeeded his brother as chief. Their relationship was not, however, on the friendly terms that had existed between Sir Colin and Archibald. Sir Robert's eldest son John had to remind his father of the usefulness of Archibald Campbell to the House of Glenorchy. In a letter of 24 September 1640 John wrote to his father:

Now experience may persuade your honour how dangerous it is to your honour and your house to want Archibald Campbell's frendship and help. Trewlie I belive if ye jarr any more ye will not want cunning and able fishers to fyshe in your drumlie waters. Thairfor sir as ye regard the standing of your house, quatever benefite ye give him, let him not want your favor nor lose not his.¹⁰⁸

This extract gives a very good impression of the way in which Archibald Campbell operated and how he was viewed as a "cunning and able fisher": a fitting description of the attributes of a legal agent required by a chief.

Archibald Campbell also found time for other business activities in addition to managing the affairs of the Campbells of Glenorchy. On 19 December 1628 he had become a burghess of Edinburgh¹⁰⁹ and he acted as a moneylender throughout his life. Sir Duncan, Sir Colin and Sir Robert Campbell of Glenorchy all borrowed from him.¹¹⁰ Archibald Campbell's testament reveals the extent of his moneylending activity in the 1640s. The debts that were owed to him at the time of his death in 1645 included bonds of £2000 and 10,000 merks by Sir James Murray, 9000 merks by the Earl of Roxburgh, 4000 merks by Lord Napier and 12,000 merks by the Earl of Queensberry.¹¹¹ Archibald Campbell had accumulated large sums of money in the course of his career which he lent to various nobles and received a healthy income, one assumes, from annual rent payments on these bonds.

A study of the relationship between the chiefs of Glenorchy and the Edinburgh legal profession in the years from c1600 to 1650 has concentrated on the careers of two men who oversaw the legal work of the family during this period. The above discussion has demonstrated that a close social and professional relationship developed between Glenorchy chiefs and the Edinburgh advocate Mr David Primrose and that during the 1630s and early 1640s Archibald Campbell managed the affairs of the family in the capital. Archibald Campbell, a Highlander, was a close kinsman of Sir Colin and Sir Robert and his role is a reflection of closer ties between the Highland elite and the Edinburgh legal profession which have already been demonstrated.¹¹² The discussion has also focused on the importance of his work as a lobbyist and as an agent giving political advice. The careers of both of these men reveal the importance

of the relationship between Highland chief and Edinburgh legal agent in the first half of the 17th century.

1650 TO 1700

There is no evidence in the correspondence in the Breadalbane Muniments which indicates that during the 1650s there was one particular individual who was based in Edinburgh and functioned as a legal agent for the Glenorchy family. A few letters survive from the Edinburgh writer John Nicoll¹¹³ from 1656 and one letter in the same year from the Edinburgh advocate Mr William Syme¹¹⁴, both of whom had been undertaking legal work for John Campbell the eldest son of John Campbell, chief of Glenorchy, and the future first Earl of Breadalbane. Two letters dating from 1660 from the advocate Sir John Nisbet show that he was closely involved in giving advice in an attempt to settle the dispute that took place at this time between the Laird of Glenorchy and his eldest son.¹¹⁵ There is no evidence from these years, however, that the overall control of the legal affairs of the family was being directed by one particular individual as was the case for much of the earlier 17th century. The 1650s was a decade of disruption in the Highlands caused by the Glencairn Rebellion and its defeat. The period was also disruptive for the Edinburgh legal profession as Scotland was forced into a union with England. The early 1660s were a period of change after the Restoration of Charles II in 1660. It is perhaps not surprising, considering this background of political change, that the legal affairs of the Campbells of Glenorchy lacked overall coordination by one particular lawyer during the 1650s and early 1660s.

It has been shown in the previous chapter that the later 17th century witnessed the movement of considerable numbers of kinsmen of Highland chiefs into the Edinburgh legal profession who then acted as "Clan Lawyers" for their chiefs.¹¹⁶ It seems that

Mr Alexander Campbell, the Earl of Breadalbane's younger brother, was being groomed for such a position in the Edinburgh legal establishment. He began his legal training under Hugh Paterson WS in 1668.¹¹⁷ In a bond with his eldest brother, the future Earl of Breadalbane, of 5 May 1674 Alexander thanked his brother for paying for his legal education and agreed to manage his brother's legal affairs without being paid: "I oblige myself that I shall act and manadge his affaires at lawe without any pensione or allowance".¹¹⁸ On May 18 1680 Alexander wrote from Utrecht in the Netherlands that he intended to continue his legal education at Leyden ¹¹⁹ indicating that he had decided to become an advocate on his return to Scotland. But his early death by 23 June 1681 ended Breadalbane's hopes of having a brother at the Bar.¹²⁰

Another Campbell kinsman who had pursued a career in the law was to step into Alexander's shoes and act as Breadalbane's legal adviser in the later 17th century. This was Breadalbane's cousin, Colin Campbell of Carwhin, who was the son of Colin Campbell of Mochaster. Campbell of Mochaster was the brother of Sir John Campbell of Glenorchy, Breadalbane's father.¹²¹ Carwhin trained as an apprentice writer with George Dallas; the band of indenture by which arrangements were drawn up between lawyer and apprentice was signed in 1669.¹²² In the 1670s he worked as the sheriff-clerk of Caithness¹²³ probably receiving his position through Campbell influence on the Earl of Caithness.¹²⁴ He was already sheriff-clerk of Caithness when he was made a burgess of Wick on 14 December 1674.¹²⁵ At some point in the early 1680s he must have returned to Edinburgh; letters from him are found in the Breadalbane Muniments from July 1680¹²⁶ and it seems likely that he began to work as a legal agent for Breadalbane from around this time. He became a Writer to the Signet on 9 February 1686.¹²⁷ The correspondence between Breadalbane and Colin Campbell of Carwhin survives in the Breadalbane Muniments. The letters reveal Carwhin advising Breadalbane on a wide variety of legal matters in particular arrangements for the

management of Breadalbane's debts.¹²⁸ The letters also provide a rich historical source for studying the progression of Breadalbane's political career and how this related to the political events of the later 17th century. Hopkins has made extensive use of them in his detailed study of the Massacre of Glencoe and the ensuing events in the Highlands in the 1690s.¹²⁹ Carwhin was also involved in the distribution of the Irish Bible in Scotland which was organised by Robert Kirk the minister of Aberfoyle in the later 17th century.¹³⁰

In the later 17th century Breadalbane maintained close contact with another Edinburgh lawyer. This was the advocate William Calderwood who later became a Court of Session judge as Lord Polton. The correspondence between him and Breadalbane began in 1694 when Calderwood listed in a letter of 27 January Breadalbane's enemies and friends amongst the judges of the Session, indicating that cementing relations with the judiciary was still of prime importance in the later 17th century as it had been earlier.¹³¹ Other letters reveal Calderwood informing Breadalbane about international news such as the expectations of civil war in Poland¹³² or advising him on specific legal affairs¹³³ and the relationship continued into the 18th century. Breadalbane therefore maintained close links with another Edinburgh advocate alongside his relationship with his "clan lawyer" and kinsman Colin Campbell of Carwhin WS.

CONCLUSIONS

This chapter has traced the relationship between the chiefs of the Campbells of Glenorchy and the Edinburgh legal profession. In the period from c1550 to 1600 Sir Colin and Sir Duncan employed a number of Edinburgh advocates to represent them in the Court of Session but the evidence indicates that Mr Oliver Colt was employed by Sir Duncan on a permanent basis as he was paid a regular pension.

In the years from 1600 to 1650 the relationship with the Edinburgh legal profession became closer and Sir Duncan and his sons made use of the advocate Mr David Primrose. This relationship went beyond the narrowly professional and a close social relationship developed between the Glenorchy and Primrose families.

After Sir Duncan's death David Primrose continued to work for the family but Archibald Campbell, brother of Campbell of Lawers, took over as the principal coordinator of the Glenorchy family legal affairs in Edinburgh. This was a new departure since Archibald Campbell was a close kinsman of the Glenorchy chiefs. He also acted as a lobby agent attempting to secure a peerage for Sir Colin and gave him political advice at the time of the Covenanting Revolution.

The 1650s saw the family without a central controlling agent to influence their legal affairs but in the later 17th century Alexander Campbell the brother of the first Earl of Breadalbane was being groomed for the position of "clan lawyer" for the Campbells of Glenorchy. His early death opened the way for another kinsman of Breadalbane, Colin Campbell of Carwhin, to operate in this capacity.

The development of the relationship between Glenorchy chiefs and the Edinburgh legal profession therefore fits closely with the general situation which was described in Chapter 2; the employment of advocates in the later 16th century under the pressure of an increasingly powerful central government, the gradual development of a closer relationship between chiefs and lawyers in the early 17th century and the intrusion of members of the Highland elite into the Edinburgh legal profession as "clan lawyers" in the later 17th century.¹³⁴

The study of the relationship between chiefs and Edinburgh lawyers also provides interesting insights into the history of an Highland kindred in the period from c1550 to 1700. The above discussion has revealed the reluctance of chiefs in the later 16th century to provide representation at the Court of session and how this had altered by the 1590s under a heightened royal authority. The rising importance of the legal profession in Scottish society is revealed from the study of the relationship between Archibald Campbell and Sir Colin Campbell of Glenorchy. This indicates that the political position of Sir Colin Campbell of Glenorchy during the Covenanting period was strongly influenced by the stance of the legal profession when one might have expected Sir Colin to be directed by the Earl of Argyll. The correspondence between the first Earl of Breadalbane and Colin Campbell of Carwhin indicates the importance of indebtedness as a problem facing Highland chiefs in the later 17th century.

¹ *Infra*, 164-173.

² *Taymouth Bk.*, 10-14.

³ *Ibid.*, 14-19.

⁴ *Ibid.*, 20-63.

⁵ MacGregor, *Political History*, 225-6.

⁶ *Taymouth Bk.*, 21-64.

⁷ *Ibid.*, 35-6.

⁸ *Ibid.*, 36.

⁹ *Ibid.*, 29-30.

¹⁰ SRO Bread. Muns., GD 112/1/488.

¹¹ SRO Bread. Muns., GD 112/29/2/1-19.

¹² *Ibid.*, GD 112/29/2/19.

¹³ *Faculty of Advocates*, 39.

¹⁴ APS, iii, 121.

¹⁵ *Taymouth Bk.*, 22.

- ¹⁶ SRO Bread. Muns., GD 112/1/268.
- ¹⁷ RPC, first, iv, 180.
- ¹⁸ *Clan Campbell*, viii, 186.
- ¹⁹ RPC, first, iv, 315.
- ²⁰ *Clan Campbell*, vi, 81.
- ²¹ Robert Vaus Agnew(ed.), *Correspondence of Sir Patrick Waus of Barnbarroch* (Edinburgh,1887), 464-5.
- ²² SRO Bread. Muns., GD112/39/1-20.
- ²³ *Clan Campbell*, viii.
- ²⁴ SRO, Acts and Decrees of the Court of Session, CS 7/49, f225-6.
- ²⁵ Ibid., CS 7/98 f100-102, CS 7/103 f27,
- ²⁶ Ibid., CS 7/124, f192-4.
- ²⁷ Ibid., CS 7/131, f32 and CS 7/181, f248-51.
- ²⁸ Ibid., CS 7/156, f44-5.
- ²⁹ Ibid., CS 7/181, f248-51.
- ³⁰ Ibid., CS 7/124, f192-4, CS 7/156, f44-5, CS 7/160, f67-8, CS 7/156, f7.
- ³¹ SRO Bread. Muns., GD 112/39/20-88.
- ³² *Faculty of Advocates*, 173.
- ³³ *Clan Campbell*, vi, 63.
- ³⁴ *Taymouth Bk.*, 311.
- ³⁵ SRO Bread. Muns., GD 112/39/20/8.
- ³⁶ RPC, first, x, 678.
- ³⁷ RPC, first, xi, 402.
- ³⁸ *Justiciary Cases*, i, 149.
- ³⁹ Pitcairn, *Trials*, iii, 545-552.
- ⁴⁰ Fraser, *Menteith*, ii, 53-4.
- ⁴¹ RPC, first, xiv, 555.
- ⁴² *Justiciary Cases*, i, 127.
- ⁴³ Ibid., 129.
- ⁴⁴ *Scots Peerage*, vii, 216.
- ⁴⁵ *Infra*, 146-54.
- ⁴⁶ SRO Bread. Muns, GD 112/39/22/15, 112/39/22/16, 112/39/23/6 and 112/39/24/1.
- ⁴⁷ RPC, first, viii, 315.
- ⁴⁸ SRO Bread. Muns., GD 112/ 36/3/5.
- ⁴⁹ *Supra*, 141.

- 50 *Taymouth Bk.*, 311.
- 51 SRO Bread. Muns., GD 112/39/35/5.
- 52 *Ibid.*, GD 112/39/36/22.
- 53 *Ibid.*, GD 112/39/44/4.
- 54 *Ibid.*, GD 112/39/60/19.
- 55 *Orain Iain Luim*, 43.
- 56 *Highland Papers*, iii, 221-2.
- 57 SRO Bread. Muns., GD 112/23/8/16.
- 58 *Ibid.*, GD 112/39, various letters from David Primrose.
- 59 *Ibid.*, GD 112/39/47/4 and 112/39/47/7.
- 60 *Taymouth Bk.*, 71.
- 61 *Ibid.*, 23-84.
- 62 *Ibid.*, 72, 85.
- 63 *Infra*, 223-5.
- 64 SRO Bread. Muns., GD 112/39/42/31.
- 65 *Taymouth Bk.*, 49.
- 66 Edward J. Cowan, "Fishers in Drumlie Waters: Clanship and Campbell Expansion in the time of Gilleasbuig Gruamach", *TGSI*, liv, (1984-6), 291.
- 67 *Ibid.*, 291.
- 68 RPC, first, vii, 336.
- 69 RPC, first, ix, 493.
- 70 RPC, first, xiii, 278.
- 71 *Ibid.*, x, 108-9.
- 72 Fraser, *Grant*, iii, 435-6.
- 73 RPC, first, x, 724-5.
- 74 *Ibid.*, second, i, 201.
- 75 *Ibid.*, first, x, 436-9.
- 76 *Clan Campbell*, viii, 211.
- 77 *Highland Papers*, iii, 156-7.
- 78 *Ibid.*, 168-70, 177-186, 217-18, 289-91.
- 79 His correspondence with the Campbell of Glenorchy chiefs is found in SRO Bread. Muns., GD 112/39.
- 80 Fraser, *Haddington*, ii, 175-6,
- 81 SRO Bread. Muns., GD 112/39/82/3.
- 82 *Scots Peerage*, v, 506-7.

- 83 SRO Bread. Muns., GD 112/39.
- 84 Impression gained from letters in Bread. Muns., GD112/39.
- 85 Ibid.
- 86 Ibid., GD 112/39/53/11.
- 87 Ibid., GD 112/39/54/12.
- 88 *Scots Peerage*, v, 184.
- 89 *Taymouth Bk.*, 66.
- 90 SRO Bread Muns., GD 112/39/48/16.
- 91 Ibid., GD 112/39/48/21.
- 92 Ibid., GD 112/39/49/1.
- 93 Ibid., GD 112/39/50/25.
- 94 Ibid., GD 112/39/81/6.
- 95 Paul Hopkins, *Glencoe and the End of the Highland War*, (Edinburgh 1986, 54-5, 61.
- 96 *Scots Peerage*, ii, 203.
- 97 *Taymouth Bk.*, 68-9.
- 98 SRO Bread. Muns., GD 112/39/33/16.
- 99 Ibid., GD112/39/33/25-6, 112/39/34/12, 112/39/35/7, 112/39/38/4.
- 100 Ibid., GD 112/39/33/25.
- 101 Ibid., GD 112/39/38/4.
- 102 *Taymouth Bk.*, 81.
- 103 SRO Bread. Muns., GD 112/39/65/11.
- 104 Ibid., GD 112/39/65/15.
- 105 Ibid., GD 112/39/66/7.
- 106 Ibid., GD 112/39/67/4.
- 107 *Taymouth Bk.*, 84.
- 108 SRO Bread. Muns., GD 112/39/82/12.
- 109 James J. Brown, *The Social, Political and Economic Influences of the Edinburgh Merchant Elite, 1600-1638*, (Edinburgh University PhD 1985), 452.
- 110 *Taymouth Bk.*, 80, 81, 95.
- 111 SRO Commissary Court Records, CC 8/8/63 f21-2.
- 112 *Supra*, 65-107.
- 113 SRO Bread. Muns., GD 112/39/101/10, 112/39/101/11 and 112/39/101/13.
- 114 Ibid., GD 112/39/101/9.
- 115 Ibid., GD 112/39/106/14, 112/39/106/15.

- 116 *Supra*, 92-9.
- 117 SRO Bread. Muns., GD 112/3/71/13.
- 118 *Ibid.*, GD 112/3/73/6.
- 119 *Ibid.*, GD 112/39/131/2.
- 120 *Ibid.*, GD 112/35/13/9.
- 121 *Scots Peerage*, ii, 189-90.
- 122 SRO Bread. Muns., GD 112/64/7.
- 123 *Ibid.*, GD 112/64/2.
- 124 Hopkins, *Glencoe*, 54-5.
- 125 SRO Bread. Muns., GD 112/64/1/6.
- 126 *Ibid.*, GD 112/39/132/4.
- 127 *Register of Writers*, 50.
- 128 SRO Bread. Muns., GD 112/39/138/10, 112/39/151/15, 112/39/154/11.
- 129 Hopkins, *Glencoe*.
- 130 D. MacLean, "The Life and Literary Labours of the Rev. Robert Kirk of Aberfoyle", *TGSI*, xxxi, 1922-4, 328-345.
- 131 SRO Bread. Muns., GD 112/39/166/11.
- 132 *Ibid.*, GD 112/39/175/15.
- 133 *Ibid.*, GD 112/39/176/8.
- 134 *Supra*, 65-107.

CHAPTER 5: THE RELATIONSHIP BETWEEN SIR DUNCAN CAMPBELL OF GLENORCHY AND HIS NOTARY PUBLIC GAVIN HAMILTON

The best documented of all the relationships between chief and local notary obtained from the sources examined during this study is that between Sir Duncan Campbell of Glenorchy and his notary public Gavin Hamilton. Enough evidence survives in the Breadalbane Muniments to provide a fairly detailed picture of their relationship in the later 16th and early 17th century.

Gavin Hamilton was the son of Mr James Hamilton¹ who was Bishop of Argyll between 1553 and 1580.² MacGregor has suggested that Gavin Hamilton trained as a notary under John Carswell, the Superintendent of Argyll who translated the Book of Common Order into Gaelic. Carswell was himself a notary public and Hamilton is referred to as his servitor when he was admitted as a notary.³ Hamilton was admitted to the office of notary on 1 January 1570 and his protocol book states that this was at the age of twenty-two which would place Gavin Hamilton's birth between 2 January 1547 and 1 January 1548.⁴ MacGregor has shown that Hamilton remained in Carswell's service until his death in 1572, was briefly attached to the service of the Earl of Argyll before joining the employment of Colin Campbell of Glenorchy in 1574.⁵ After Colin's death on 11 April 1583 he continued to act as the notary of Duncan Campbell of Glenorchy. His attachment to Carswell and his father's position meant that it was natural that he might seek employment in a Campbell chief's household. Despite being viewed as an incomer by MacGregor,⁶ his upbringing within the diocese of Argyll and his relationship with Carswell probably indicates that although his first language was Scots he was also surely proficient in Gaelic and therefore was at ease working within the society of the Highlands belonging to that

group of bilingual lawyers who have already been described as operating in Scotland at this time.⁷

The nature of the legal work undertaken by a notary public in the Highlands in the later 16th and early 17th century can be investigated by examining various documents in the Breadalbane Muniments and the Protocol Book of Gavin Hamilton. These reveal the notary public in a peripatetic role, moving around the Glenorchy residences drawing up a variety of documents: tacks, bonds of manrent, discharges, bonds of fosterage and instruments of sasine. Hamilton therefore played an important role in the administration of the landed and political expansion of the Campbells of Glenorchy in the late 16th and early 17th century. In a bond dated at Finlarig on 12 June 1591 it was stated that "how soon Gavin Hamiltone shall come, they shall ratify their band of manrent".⁸ Hamilton also travelled to the local burghs to undertake legal work for the Glenorchy chiefs: for example he was in Stirling in March 1578 to witness the signing of a bond by John Campbell, the natural son of the late Duncan Campbell of Glenlyon, to Colin Campbell of Glenorchy.⁹

We have already seen that local legal servitors might travel to Edinburgh to undertake work for their chiefs in the capital.¹⁰ Hamilton also made trips to Edinburgh to carry out the family's legal work. He was present in Edinburgh in January 1574 to witness an obligation by Colin Campbell of Glenorchy concerning a gift of nonentries of lands in the barony of Menzies which had been given to Glenorchy.¹¹ On 21 April 1586 he acted as the procurator of Archibald Campbell, brother of Duncan Campbell of Glenorchy, before the Privy Council in a complaint by Archibald against Jean Ruthven, Lady Strathurde, who was trying to get a commission against Archibald made null and void.¹² The local servitor was therefore expected to travel to Edinburgh and plead for his master's interest in one of the central courts. Hamilton

was also present in Edinburgh on 22 April 1607 when he witnessed the apprehension of Simon Lord Lovat, along with Donald Campbell the servitor of George Heriot goldsmith in Edinburgh. Lovat's arrest was because of acts of violence against the lands of Sir Duncan Campbell of Glenorchy by a number of Highlanders who were at the horn and who Lord Lovat was responsible for.¹³

At some point Gavin Hamilton received the offices of chancellor and chanter of Lismore: Colin Campbell of Glenorchy had been the patron of the chancellorship and chanter'ship since 1553.¹⁴ This was no doubt a reward to Hamilton for loyal service. The testament of Colin Campbell of Glenorchy indicates that Hamilton was receiving a fee of £40 a year at the time of Colin's death in 1583.¹⁵ Other documents in the Breadalbane Muniments reveal how he was rewarded. On 20 June 1585 Duncan Campbell of Glenorchy granted an annual rent of £65 13s 4d to Gavin Hamilton for the rest of his life¹⁶ and on 10 December 1588 he was infefted in an annual rent of 16 bolls and other produce for life.¹⁷ In September 1597 the payments to him were simplified and in a contract between them Gavin Hamilton renounced his previous annual rents in favour of Sir Duncan Campbell and in return Duncan infeft Hamilton for the course of his life in an annual rent of £120 from lands in Finlarig.¹⁸ Such an amount would have provided Gavin Hamilton with a comfortable standard of living for his family and compares very favourably with the sums paid by chiefs to other legal servitors at this time.¹⁹

Two of Gavin Hamilton's sons also worked for Sir Duncan. Arthur Hamilton worked as a servitor for Sir Duncan in the 1580s²⁰ before training as a writer in Edinburgh and becoming a Writer to the Signet before 1595.²¹ Patrick Hamilton worked as a servitor for Sir Duncan in the 1590s in the Highlands²² and then became a Writer to the Signet in Edinburgh before 1612.²³

The relationship between Sir Duncan Campbell of Glenorchy and Gavin Hamilton provides an interesting example of the chief/local lawyer relationship in the later 16th century. What makes the relationship particularly intriguing, however, is that it broke down in the early 17th century into an acrimonious dispute which shines further light on the lawyer/chief relationship at this time.

Gavin Hamilton lost his position as the main notary public of Sir Duncan Campbell sometime between 1604, when his protocol book ends, and 1608 when we first pick up statements of the disagreement between him and Sir Duncan in the correspondence in the Breadalbane Muniments. The exact reason for his dismissal remains unclear but as well as losing his position as Glenorchy's chief legal servitor it seems that Sir Duncan had revoked the liferents that had previously been given to Gavin Hamilton. A declaration by Patrick Hamilton WS, Gavin's son, of 29 March 1624 which looks back at the events from later reveals some of the background to the affair. Patrick states that at the time of his dismissal his father had been driven to desperate measures:

eage accompanyit with great infirmitie povertie and mony bairns drew on him and having no meanis to sustene him and thame bot that qll came of the hous of glenurchquhay necessitie and evill yeiris so encroched upoun him that he out of plane povertie maid and subscrivit sum depositis and confessionis of forgeries and enorme deidis alleagit done be him quhilkis wer all untruthis forgit and inventit calumnies and subtieties onlie to caus the laird of Glenurchquhay help and pitie his present estait and miserie.²⁴

A document of 1609 dated at Rutherglen on 14 July signed by Gavin Hamilton listed a series of legal malpractices that he had carried out for Sir Duncan Campbell of Glenorchy which included falsifying signatures on documents, forging charters and

instruments of sasine and faking a discharge. The document of 1609 ended with the statement:

We gavin hamiltoun and patrick hamiltoun my son grantis...that all the saidis and poyntis contenit in the foirsaid minit ar fals and unjust of thame selffs and onlie inventit and divisit be us aganis the said Sir Duncane upoun malice.²⁵

Serious allegations of forgery of legal documents had therefore been made by Gavin Hamilton against Sir Duncan but these were later withdrawn by the writing of this document. The background to this can be found in a series of letters from Gavin Hamilton and Arthur Hamilton to Sir Duncan in the Breadalbane Muniments.

On 26 March 1608 Gavin Hamilton wrote a long letter to Sir Duncan giving an overview of the situation. Hamilton described his time as a notary for Colin Campbell of Glenorchy and Sir Duncan and castigates Sir Duncan for his mistreatment and alludes to the fact that he intends to reveal to James VI the wrongdoing of Sir Duncan.²⁶ In a letter of July 4 1608 from Edinburgh Gavin Hamilton refers to a meeting between himself and Sir Duncan at Perth at which nothing was settled and again threatening blackmail:

youre bairns or any utheris in this erand ffor thai ar young and nane of thame or utheris knawis quhat is past betuix your M and me and sall nevir know gif ye do your dewtie.²⁷

A further source of friction between Sir Duncan Campbell and Hamilton at this time was a law case raised against Sir Duncan before the Court of Session on 21 May 1608 at the instance of Gavin Hamilton's wife Margaret Fisher for the non-payment of her yearly pension of £20 over ten years.²⁸ Margaret had been a servant of Sir Duncan's

mother Katherine Ruthven. In court Sir Duncan stated that he had never made a promise of the pension and as a result the Lords of Session acquitted him.²⁹ The loss of this case must have angered the Hamilton family further and together with the loss of Gavin Hamilton's position must have provoked Hamilton into what seems to have been the drastic action of blackmailing one of the most powerful Highland chiefs of the period.

In another letter from Hamilton to Sir Duncan of 12 July 1608 Hamilton continued to complain of Sir Duncan's "unlawfull abusing of me thir mony yeris bigane" and again threatened to plead his case before the King.³⁰ The looming crisis in relations between Sir Duncan and his ex-servitor was resolved however. Sir Duncan backed down and came to an accommodation with the Hamilton family. The section of the document of 14 July 1609 which stated that the allegations were false must have been added after an accommodation was reached. In a letter of 30 October 1609 from Edinburgh Gavin Hamilton stated that he had received Sir Duncan's letter with £40 and the tone had altered to being more convivial reflecting the fact that Gavin was now receiving the financial aid that he sought.³¹ The remaining correspondence between the two shows that Hamilton was receiving a pension from Sir Duncan in the years after 1609 and discharges in the Breadalbane Muniments indicate that this was the case.³² In a letter of 1614 Gavin Hamilton acknowledges receipt of 10 merks,³³ in a letter of 1615 £10³⁴ and in 1616 £20 and states that he will do anything he can for Sir Duncan.³⁵ In another letter of July 1616 he was requesting another £20 "becaus this tounis verray deare in all thingis".³⁶ And as late as 1616 was undertaking some legal work for Sir Duncan which involved negotiations with Campbell of Lawers.³⁷ Sir Duncan also continued to employ Gavin's son Arthur Hamilton WS to undertake some of his legal work in Edinburgh.³⁸ Sir Duncan had provided the Hamilton family with some financial security. In return the threat of disclosing the legal malpractices of the past

was removed although as we have seen above Sir Duncan was meticulous to have documents drawn up in which the allegations were all recorded and then stated to be false. Another such document was produced in 1620 after Sir Duncan had travelled to Edinburgh and held discussions with Margaret Fisher about a pension which was to be paid to her because of Gavin's recent death. The bond stated that:

at na tyme during the seiknes of the said umqle gawin....nor at na tymis sensyne that we nor nane of us revelit utterit declarit nor discoverit to na person nor persones ony thing quatsumevir directlie or indirectly that may to the hurt skaith and prejudice of the said Sir Duncane and his bairnis thair honour estait lyf landis.³⁹

The bond continued by stating that they swore they would never slander Sir Duncan or his bairns. If the conditions were not met the pension would stop and they would have to pay 500 merks.⁴⁰ Sir Duncan therefore continued to be highly sensitive to these allegations long after the initial crisis with Gavin Hamilton. One might well ask if he was innocent would he have been so sensitive to the allegations? It should be remembered that in the early 17th century forging of legal documents was a capital offence⁴¹ and so Gavin Hamilton had been risking much by pursuing his strategy of blackmail.

This is however not the only evidence of Sir Duncan's alleged disregard for the niceties of conveyancing. The Black Book of Taymouth informs us about a previous occasion when Sir Duncan was accused of forgery:

Sir Duncane wes wardit in the castell of Edinburch in the moneth of June in the yeir of God 1601, throch the occasioun of certane fals leis and forged inventis of ane Donald Monteith alias Barroun of Curquhyn, and ane uther callit Patrik McQuene ane deboysched and depryved minister, quhilkis fals

and forged inventiounis and calumneis alledgit. nochtwithstanding they wer nevir qualefeit nor prowyn. yit in respect of the pour and gredie courteouris of the tyme the said Sir Duncane was detenit in warde till he payit to the King his courteouris 40,000 marks.⁴²

The disagreement with Gavin Hamilton should be seen against this spell in Edinburgh castle and perhaps explains why Sir Duncan came to an accommodation with the Hamilton family. It is not possible to prove beyond doubt that Sir Duncan was guilty of forging legal documents. The evidence in the Breadalbane Muniments is certainly highly suggestive that he was involved in such malpractice as part of his drive to expand the landed empire of the Campbells of Glenorchy.

It seems that Sir Duncan was not a great supporter of the letter of the law but was a manipulator of it. His view is reflected in the preface of the *Black Book of Taymouth* which indicates his attitude to the law and the role of his legal servitors in relation to the law: "Conques, or keip thingis conquest to thy hand".⁴³ Here "conques" has the meaning of "acquire" as in the acquisition of property.⁴⁴ Sir Duncan's philosophy was that the institutions of the law and his legal servitors were tools to be manipulated in the acquisition of property. The *Black Book of Taymouth* is a testament to the expansionist aims of the Campbells of Glenorchy especially under Sir Duncan: a genealogical history which also includes detailed lists of property transactions undertaken by the various Glenorchy chiefs.

The relationship between Sir Duncan Campbell of Glenorchy and his legal servitor Gavin Hamilton provides a well documented example of the career of a legal servitor in the Highlands in the later 16th and early 17th century. The examination of the breakdown of the relationship also informs us about the preoccupations of one particular Highland chief at this time.

- ¹ SRO Acts and Decrees, CS 7/234, f86
- ² *Handbook of British Chronology*, 303.
- ³ MacGregor, *Political History*, 254.
- ⁴ SRO Bread. Muns., GD 112/5/8.
- ⁵ MacGregor, *Political History*, 254.
- ⁶ *Ibid.*, 253.
- ⁷ *Supra*, 65-107, 108-135.
- ⁸ *Taymouth Bk.*, 248.
- ⁹ *Ibid.*, 222.
- ¹⁰ *Supra*, 13-14.
- ¹¹ RPC, first, ii, 426-7.
- ¹² *Ibid.*, iv, 177.
- ¹³ *Ibid.*, xiv, 473-4.
- ¹⁴ MacGregor, *Political History*, 255.
- ¹⁵ SRO Commissary Court Records, CC 8/8/13, f136.
- ¹⁶ SRO Bread. Muns., GD 112/2/91/1.
- ¹⁷ *Ibid.*, GD 112/2/135/14.
- ¹⁸ *Ibid.*, GD 112/2/68/5-6, GD 112/2/71/25.
- ¹⁹ *Supra*, 128-9.
- ²⁰ *Taymouth Bk.*, 236.
- ²¹ *Register of Writers*, 137.
- ²² *Taymouth Bk.*, 253, 255
- ²³ *Register of Writers*, 138.
- ²⁴ SRO Bread. Muns., GD 112/1/465.
- ²⁵ *Ibid.*, GD 112/35/2/5.
- ²⁶ *Ibid.*, GD 112/39/20/9.
- ²⁷ *Ibid.*, GD 112/39/20/11.
- ²⁸ *Clan Campbell*, viii, 171.
- ²⁹ SRO Acts and Decrees, CS 7/236, f191-2.
- ³⁰ SRO Bread. Muns. GD 112/39/20/12.
- ³¹ *Ibid.*, GD 112/39/21/8.

- 32 Ibid., GD 112/29/6-8.
- 33 Ibid., GD 112/39/24/5.
- 34 Ibid., GD 112/39/25/1.
- 35 Ibid., GD 112/39/26/6.
- 36 Ibid., GD 112/39/26/7.
- 37 Ibid., GD 112/39/26/8.
- 38 Ibid., GD 112/39/32/15.
- 39 Ibid., GD 112/23/10/17.
- 40 Ibid., GD 112/23/10/17.
- 41 Pitcairn, *Trials*, i, 85, ii, 104-5.
- 42 *Taymouth Bk.*, 36-7.
- 43 Ibid., preface.
- 44 Mairi Robinson(ed.), *The Concise Scots Dictionary*, (Oxford, 1987), 112.

CHAPTER 6: MR JOHN MACKENZIE, ADVOCATE

Prest has identified the lawyer-client relationship as one of the most under-researched areas in the history of the legal profession in early modern Europe.¹ The Delvine Papers, a large MS collection in the National Library of Scotland, allow us to examine in detail the relationship between one particular Scottish lawyer of the later 17th century and many of his clients. The collection is made up of the family papers and the correspondence of the MacKenzies of Delvine whose founder was John MacKenzie advocate, the third son of Sir Kenneth MacKenzie of Coul.² There are over 400 volumes of manuscripts in the Delvine Papers with the majority of the material relating to the 18th century. There are, however, 115 volumes which contain 17th century material and many of these volumes contain letters to John MacKenzie from his large number of clients.³ The evidence from these volumes allows us to examine the relationship between John MacKenzie and his clients in more detail than is possible for any other late 17th century Highland lawyer and probably for any other late 17th century Scottish lawyer.

JOHN MACKENZIE'S LIFE

The MacKenzies of Coul were a cadet branch of the MacKenzies of Kintail and they traced their origins to Alexander MacKenzie of Coul and Applecross who was the natural son of Colin Cam MacKenzie of Kintail. Alexander's children included Sir Kenneth MacKenzie of Assynt who in 1649 changed his designation to "of Coul" and was made a baronet by Charles II in 1673.⁴

The date of John MacKenzie's birth is not known and very little can be ascertained about his early life. It seems however that as a young child he was fostered with a neighbouring kindred as in a letter to him from his brother, Simon MacKenzie of Torridon, of 20 March 1686 Simon refers to John MacKenzie's "foster sister McCulloch's wyfe".⁵ He was educated at Aberdeen University where he graduated in August 1680⁶ and then spent time abroad studying law at one of the Dutch Universities.⁷ After his return to Scotland he was admitted to the Faculty of Advocates on 20 December 1681.⁸ The Faculty Minute Book entry for 6 December 1681 stated that "Mr John McKenzie being publickly examined at Tit:D Locatis conductis the facultie unanimously approved of him and recommended him to the Dean of Facultie to assigne him a law for the subject of his publicke lessone".⁹ He appears to have taken an active role in Faculty affairs being appointed as one of the examiners of new entrants to the Faculty of Advocates in 1683 and 1684.¹⁰ On 2 January 1683 MacKenzie and Mr David Forbes were appointed the first curators of the Faculty Library and their positions were extended to cover 1684 as well.¹¹

In 1686 John MacKenzie was appointed one of the clerks of the Court of Session. In July of that year his brother Simon MacKenzie of Torridon had written the following to him: "I am glade ye have gott ane credible and beneficiall office and all your concernes should with you show all gratitude to My Lord Tarbat for his kyndnes to you".¹² Sir George MacKenzie of Tarbat's position as Lord Clerk Register between 1681 and 1689 and then again between 1692 and 1696 gave him considerable powers of patronage. Atholl Murray has stated that under MacKenzie of Tarbat "the office of clerk register enjoyed its period of greatest power".¹³ As a result the 1680s were a period when career prospects were particularly good for lawyers belonging to the MacKenzie kindred. MacKenzie of Tarbat's extensive patronage covered a variety of posts including the clerk of the admission of notaries, the clerk of the bills, four

exchequer clerks, the keepers of the general registers of hornings, inhibitions and adjudications, the keeper of the general register of sasines and all the particular registers, the keeper of the register of tailzies and the clerks of the Court of Session. The position of clerk of the Court of session was a lucrative one and so was much sought after. Sir Aeneas MacPherson, another Highlander who was also an Edinburgh advocate, was disappointed when he was offered the position of sheriff of Aberdeen since he had hoped to secure that of clerk of the Session which he described as "a post of greater profite and fitter for my circumstances".¹⁴ John MacKenzie and Sir Aeneas MacPherson were friends and it seems that they were in competition for the clerkship of the Session. Sir Aeneas wrote to MacKenzie from London on 29 January 1686 concerning MacKenzie's appointment as clerk:

"The newes by your last of your change of fortune was very respectful to me but your Apollogie as uncase as it is supirsulouse. I know you too weel to jealousy you or think you capable of anie thing that is durtie....Its time I have pretended and laboured heer to little purpose for a clerkship thir severall months passed".¹⁵

John MacKenzie's kinship links with the Lord Clerk Register had proved more useful for obtaining the position of clerk to the Session than Sir Aeneas's pleading skills at the Court of James VII in England.

As a clerk of Session MacKenzie could no longer represent his clients in the Court of Session himself and so this aspect of his work as a lawyer came to an end in 1686.¹⁶ He did, however, continue to act as the legal agent of a large number of clients whose correspondence to him has survived in the Delvine Papers.

In the later 17th century and early 18th century John MacKenzie prospered in his position as clerk of the session and he purchased the barony of King's Cramond in Midlothian in 1697 and the large estate of Delvine near Dunkeld in Perthshire in 1705. MacKenzie married three times. Firstly in 1684 to Isabel Lentron of Kincapple in Fife who died six weeks after their marriage; secondly in the same year to Katherine Gordon daughter of the Laird of Cluny of Aberdeenshire and thirdly to Margaret, daughter of Thomas Hay of Alderston in East Lothian. MacKenzie's son George became an advocate in 1710 and another son, Alexander, a Writer to the Signet in 1714, establishing a legal dynasty of MacKenzie of Delvine lawyers.¹⁷

The following discussion of John MacKenzie's work as a lawyer and his relationship with his clients is based solely on material relating to the 17th century. A discussion of some aspects of the life of MacKenzie and his sons in the 18th century can be found in two articles by Jean Munro.¹⁸

JOHN MACKENZIE THE LAWYER

"I know not what hand to turne me to only that I rely altogether on your advice" wrote Lady Glengarry to MacKenzie from Inverness on 31 August 1698.¹⁹ That MacKenzie was a successful and skilled legal agent is proved by the numerous statements of thanks found in letters to him from his clients and in the fact that he maintained such a large number of clients over so many years. In 1699 Sir Donald MacDonald of Sleat wrote to him the following: "As long may you live to be happy and my adviser as I may do in Duntulme or elsewhere, for without you I would have little credit and as little comfort".²⁰

The large number of surviving letters from clients to John MacKenzie provides us with a fascinating source for the nature of work carried out by a Scottish lawyer in the later 17th century. The letters tell us nothing, however, about his work as a clerk of the Court of Session. As has been pointed out before, the letter from a client to a lawyer or from a lawyer to a client can be a frustrating historical source; often providing glimpses or references to interesting cases which one is unable to follow up. The nature of this source makes it unsuitable for a comprehensive study of the work of an individual lawyer; letters do not tell the whole story and are often composed of a confusing mixture of references to particular pieces of work being carried out for the client, information about the events of the day and personal reflections on any subject under the sun. They are therefore unsuitable for building up a statistical analysis of the client-lawyer relationship but taken together can provide important generalisations about this relationship. The work which John MacKenzie undertook for his clients will be analysed by dividing it into four main categories: legal, financial, political and miscellaneous. That we do not receive a complete picture of MacKenzie's work from the correspondence is indicated from a letter from Hugh Baillie to MacKenzie from the Chanonry of Ross on 15 June 1691 which contained the statements "Read and burne" and "Let non sie it".²¹ On this occasion MacKenzie did not take the writer's advice but we have no way of knowing how many letters of a sensitive nature were destroyed after they had been read. Although many letters arrived in Edinburgh through the basic postal system that operated in the later 17th century some were delivered by bearers who might expand upon some of the statements in the letters and cover those points that the client did not wish to have committed to paper. Such letters to a lawyer do not provide therefore a complete picture of the work that was being carried out.

Firstly the strictly legal side of John MacKenzie's work for his clients will be considered. MacKenzie provided his clients with advice covering a number of areas; land transactions, criminal work, marriage settlements and debt management. The overseeing of conveyancing is found relatively often in the correspondence between MacKenzie and his clients. This is not unexpected as the landowning class made up the majority of his clients. For example in 1693 he undertook conveyancing work for Hugh Fraser of Belladrum.²² He negotiated the purchase of a house in the Chanonry of Ross in 1694 for George MacKenzie of Inchcoulter: "Speake to Mr. John Munro anent his house in Chanonrie...whither hee accept the two and twentie hundred merks and acquaint me".²³ On 16 January 1691 MacKenzie of Kinnock asked John MacKenzie to "procure me ane tack of land from the Viscount of Tarbat in the parich of Cromartie for yeirly dutie".²⁴

The letters also reveal John MacKenzie's advice being sought on legal affairs of a criminal nature. For example on 10 April 1696 John Chisholm of Chisholm wrote to MacKenzie that he had been kept prisoner for the last ten or twelve days at the Privy Council's orders and requesting MacKenzie's help to secure his release.²⁵ MacKenzie was in close contact with Kenneth 4th Earl of Seaforth when the Earl was imprisoned in Edinburgh Castle in 1699 and 1700, making efforts to secure his release and managing some of the Earl's legal affairs.²⁶ In 1690 a group of heritors in Ross which included nine MacKenzies wrote to John MacKenzie informing him that they had been asked to find caution for securing the peace and that they wanted MacKenzie to manage the affair.²⁷

The letters also reveal that John MacKenzie's advice was sought on the legal aspects of marriage. In a letter of 3 December 1693 Duncan MacIver of Carloway in Lewis who was married to Barbara MacKenzie, John MacKenzie's sister, asked MacKenzie

to arrange a divorce for his daughter. His daughter was married to John Morrison who had been out of the kingdom for the last seven or eight years and so a divorce was to be arranged on the grounds that Morrison had abandoned his wife.²⁸ On 31 December 1689 Kenneth MacKenzie of Davochmaluag wrote to John MacKenzie for advice concerning the details of his daughter's marriage settlement²⁹ and in 1699 MacKenzie seems to have been involved in legal matters relating to the marriage contract of Lady Lochiel since he had the contract in his possession at this time.³⁰

The letters to John MacKenzie reveal that the area of legal work that he spent most of his time on was the management of legal problems stemming from the indebtedness of his clients. This conclusion does not come from statistical analysis but from a general impression gained from reading through the correspondence. The problems associated with debts and the laborious negotiations with creditors must have taken up a considerable amount of John MacKenzie's time. For example in 1691 George MacKenzie of Gruinard wrote to MacKenzie concerning a debt owed by him to the Earl of Seaforth of twelve years feu-duty which had been assigned to the Earl of Mar. Gruinard wanted MacKenzie's advice: "since I am confident ther is non can give me advice in the licke mater who wishes the weelfare of my familie more then you".³¹ In 1696 George MacKenzie of Inchcoulter wrote to MacKenzie about a debt owed by the Earl of Seaforth which Seaforth was refusing to pay. Inchcoulter was determined to take legal action against his chief and asked MacKenzie advice about the details of the legal process involved: "Im fully determind to pursue my Lord".³² The numerous references to debts in the letters to John MacKenzie give the clear impression that the management of the legal problems relating to debt was the most common area of the work that MacKenzie undertook for his clients in the later 17th century.³³ The letters also contain a number of references to the financial problems and ruin that were caused by the chronic indebtedness of the Highland chiefs and clan elite at this time.³⁴

In Chapter 8 it is argued that by the later 17th century chronic indebtedness was a major concern for the Highland elite and a major factor in causing social, economic and cultural change amongst the landowning class in the Highlands.³⁵

The second category of work carried out by John MacKenzie for his clients has been defined as financial. Thus MacKenzie was involved in organising the payments of his clients' taxes. For example on 18 March 1697 John MacKenzie of Assint wrote to him from Fortrose stating that: "Aplecross and I have sent south £500 for payment of majestie due to the publick and both of us intrit upon you as the most trusty and active freind for giving it and returning a discharge conforme to our band".³⁶ MacKenzie also organised the sale of the surplus produce from the lands of his clients. In 1689 Alexander MacKenzie of Balmaduthy wanted MacKenzie to organise the sale of victual from his lands.³⁷ He also acted as a financial go-between for MacKenzies who were abroad. For example he dispatched money to Colin MacKenzie, later 4th Baronet of Coul, while he was studying law in the United Provinces in December 1697³⁸ and he organised the sending of money to Kenneth MacKenzie, son of MacKenzie of Gruinard, when he was in England.³⁹ MacKenzie also acted as an investment adviser. On 22 November 1695 a MacKenzie in the British Army wrote to him the following from London:

I want verie much your advice, and opinion of the Scots East India Company, wher my vise was to put £500 before I came ther are people heir of soe differnet opinions that I'm at a stand what to doe. £500 is enogh to break a poor man, if it soud miscary.⁴⁰

It seems that MacKenzie advised him that this was a good investment opportunity.⁴¹ This was perhaps one of the few times where MacKenzie's advice proved mistaken as the Scots East India Company's venture to establish a trading entrepot at Darien, in

modern day Panama, was a total failure and resulted in the loss of much of the liquid capital of Scotland including presumably the £500 put in by the MacKenzie in the British Army who had sought John MacKenzie's advice.⁴²

The third major category of John MacKenzie's work which has emerged from the Delvine Papers involved MacKenzie in a more political role acting as a "fixer" for his clients, using his connections in the government and in the legal profession. On 12 October 1683 Alexander Chisholm, sheriff-depute of Inverness, wrote the following to MacKenzie from Urquhart Castle on Loch Ness: "I intreat you mak me kyndly civill to my Lord Register. I knowe both of you might help me to a pension as comissioner of Justiciarie".⁴³ In 1691 Alexander MacKenzie of Ardloch asked MacKenzie to "advays all the great men whom you heave eney inflouence upon to favor and stand this action"⁴⁴ and on 2 November 1697 Coll MacDonald of Keppoch requested that MacKenzie speak to the Lords of the Privy Council especially Lord Tarbat in his favour in a case against MacIntosh.⁴⁵ John MacKenzie was viewed as a figure who had useful connections with members of the government and especially Lord Tarbat who we have already seen secured for MacKenzie himself the post of clerk of the Court of Session.⁴⁶

MacKenzie also appears to have had connections which allowed him to influence appointments in the Army. On 5 September 1696 John Chisholm of Chisholm wrote to MacKenzie asking him to secure a discharge from the army for a poor relation of Chisholm who needed to return to the Highlands to manage his affairs.⁴⁷ In another letter of 15 February 1699 Chisholm declared "I expecte you will be pleased to befriende the bearer a poor relation called by name Alexander Chisholm so far as to endeavor to get him in to the horse service".⁴⁸ On 4 March 1690 Allan MacDonald, an ensign in the army, wrote from Stirling to MacKenzie asking "that you will be a

promoter of my fortune if it comes within the bounds of your power".⁴⁹ John MacKenzie, son of Roderick MacKenzie of Davochmaluag, wrote from Fort William on 8 October 1690 wanting John MacKenzie to use all his influence to obtain promotion for him⁵⁰ and Murdoch MacKenzie, a lieutenant-colonel, wrote from London on 30 May 1693 requesting that MacKenzie secure him a letter from Secretary of State Johnstone to the Lord Lieutenant of Ireland recommending his advancement and asking MacKenzie to secure him a letter of recommendation from Lord Tarbat.⁵¹ As well as being a reflection of the important and useful connections established by John MacKenzie, these requests are also an indication of the importance of the army as an area of employment for Highlanders in the later 17th century. They also reveal that an important aspect of the work of a lawyer in the later 17th century was engaged in lobbying on behalf of clients.

John MacKenzie's connections in the Edinburgh legal profession and his own position as a respected lawyer were also exploited by clients who wanted to have their own sons trained in the law. In 1690 Hector MacKenzie of Assint wrote to MacKenzie informing him that he had sent his son to Edinburgh and asked MacKenzie to "assist him be your moyane and speaking for him to get him entered in a wryting chamber at the easiest rate". This was to be for only six months and did not mark the beginning of a career in the law for Assint's son but was viewed by the father as being an important aspect of his son's education which would help him in the future administration of his lands.⁵² Kenneth MacKenzie of Davochmaluag wrote to MacKenzie on 12 November 1689 asking if he could admit his son "in some corner off your publicte chamber".⁵³ On 4 July 1696 MacKenzie's brother William asked him to take his son into his own service to train as a writer.⁵⁴ Lachlan MacKinnon of Corriechatachan wrote to MacKenzie on 8 December 1699 stating that "I'll give yow the trouble to see my son settled in a writing chamber".⁵⁵ It was not envisaged that these sons would

necessarily pursue a career in the law but rather gain some experience of the law which would hold them in good stead in a society that was becoming increasingly litigious. That a number of the chiefs and clan gentry were attempting to get their sons into the Edinburgh legal profession or simply some experience relating to legal affairs is a reflection of the attitude of the Highland elite towards the law and legal profession by the later 17th century.

John MacKenzie also had a connection with Roderick MacKenzie who was Secretary to the Scots East India Company. In 1699 Provost Cuthbert of Inverness told MacKenzie that his cousin wanted to go to Darien and make his fortune and requested that MacKenzie recommend him to Roderick MacKenzie, the secretary of the company.⁵⁶

The above evidence reveals that John MacKenzie had considerable influence in government and legal circles in the later 17th century and that he used his connections to further the interests of his clients. Although we do not know if these requests were successful the fact that they were often made indicates that the clients perceived that such requests were worth making. This evidence also reveals that an important aspect of a Scottish lawyer's work during this period was to act as a "fixer" or "doer" for their clients, to establish and manipulate relationships with figures in positions of power and so to give their clients an added service.

Finally John MacKenzie performed a number of miscellaneous functions for his clients. He acted as their representative in the Scottish capital who could be called upon to undertake a variety of tasks which were totally unrelated to legal affairs. For example on 19 January 1684 his sister Christian, who was married to Dunbar of Bennetsfield, wrote to her brother: "send me these litle things I wreat for especially the scarfe for I

cannot go out att doors among the great ladies".⁵⁷ She also requested that he send her a box of virginall strings. In 1683 MacKenzie was overseeing the repairing of a watch belonging to Robert Gordon of Cluny⁵⁸ and in 1685 Cluny wrote to him the following: "I must thank you for the care in our perriwigs which are extraordinarily well".⁵⁹ In 1686 MacKenzie was purchasing a wig for James Lenton of Kincaple: "to trouble you so far as to desire you may be at the pains to buy me a short wige of a light colour such as you would choose for yurself".⁶⁰ On 26 December 1697 Lachlan MacKinnon of Corriechatachan wanted MacKenzie to purchase an Irish Bible for him.⁶¹ Clients therefore relied on MacKenzie to provide them with products which could not be easily obtained outside Edinburgh and he acted as a vitally important source of information about what was going on in Edinburgh society and further afield.

In return for the various activities that MacKenzie carried out for his clients he received payment. No details of the particular amounts that he was paid have been found in the Delvine Papers that relate to the 17th century but a number of references have been found that make it clear that MacKenzie was being paid.⁶² He also received his salary for acting as a clerk of the Court of Session. The level of legal fees charged by lawyers at this time is discussed in Chapter 7.⁶³

The letters from clients to the advocate John MacKenzie therefore allow us to examine in close detail the kind of work that was being undertaken by a Scottish lawyer in the later 17th century. The picture that emerges is one of variety: a lawyer involved with a wide spectrum of work for his clients and involved in their lives in a much broader way than his 20th century equivalent. More specifically the letters enhance our knowledge of the late 17th century Highland lawyer or "clan lawyer" and we will now examine more closely the clients of John MacKenzie.

THE CLIENTS OF JOHN MACKENZIE

The volumes of letters to John MacKenzie in the Delvine Papers allow us to examine the relationship between MacKenzie and his clients in considerable detail. It should be remembered that MacKenzie was not, however, typical of late 17th century Scottish advocate since after 1686 as a clerk of the Court of Session, he was unable to represent his clients personally in this court. However he continued to operate as a legal agent, acting as the coordinator of the legal activity for his clients.

Appendix VII lists the clients of John MacKenzie for the period from c1683 to 1700 obtained from the letters in the Delvine Papers.⁶⁴ It should be noted that this list does not contain every individual that MacKenzie acted for; some letters may be missing and there are a number of letters from individuals who it is not possible to identify. However this list certainly includes all of MacKenzie's most important clients and therefore the larger part of his entire client base. It is a long and impressive list and is surely evidence of the skills of John MacKenzie as a legal adviser.

Of the 101 clients listed a substantial proportion, c50%, come from John MacKenzie's own kindred, the MacKenzies. They included the 4th Earl of Seaforth and his mother Isobell, and members of the major cadet branches of the kindred: MacKenzie of Applecross, Ardloch, Ardross, Balmaduthy, Davochmaluag, Gairloch, Gruinard, Loggie, Pluscarden and Scatwell.⁶⁵ MacKenzie also acted as the legal agent for his elder brothers Sir Alexander MacKenzie of Coul and Simon MacKenzie of Torridon. John MacKenzie was therefore an important legal agent for much of the MacKenzie kindred in the 1680s and 1690s. The MacKenzies of Tarbat are the only major cadet

branch who did not use John MacKenzie as a legal agent probably because this family had a major presence of its own in the Edinburgh legal establishment through Sir George MacKenzie of Tarbat, the Lord Clerk Register, and his brother Roderick MacKenzie of Prestonhall, an advocate who also became a Court of Session judge in 1703.⁶⁶ Bonds of kinship therefore determined practically half of the client base of John MacKenzie advocate and he can be seen to be functioning as one of the "clan lawyers" of the later 17th century whose emergence has already been described.⁶⁷

If the family connections of other of his clients are closely examined, however, it can be seen that kinship played an even greater role in determining his clients. John MacKenzie also acted as the legal adviser of the families of his three wives; the Lentrans of Kincapple, the Gordons of Cluny and the Hays of Alderston.⁶⁸ He also worked for the kindred of his mother. She was the daughter of Alexander Chisholm of Chisholm and so MacKenzie acted for his grandfather and for his uncle John Chisholm of Chisholm, as well as for a Chisholm kinsman William Chisholm of Stirrshaws.

John MacKenzie was also the legal adviser for the families of his brothers and sisters and so his clients included Dunbar of Bennetsfield, married to his sister Christian, Sir Robert Gordon of Gordonstoun, the brother of Jean daughter of the Tutor of Sutherland who married his brother Sir Alexander MacKenzie of Coul, and probably through this Gordon connection he worked for Lord Strathnaver, the eldest son of the Earl of Sutherland. The Gordons of Gordonstoun were a cadet branch of the Gordon Earls of Sutherland. Other clients included Duncan MacIver in Carloway in Lewis who was married to MacKenzie's sister Barbara, John Munro of Foulis married to another of his sisters and so for his nephew Robert Munro 5th baronet of Foulis, John Munro of Inveran married to his sister Lillas, Alexander Rose of Clava married to his sister Margaret and William Ross of Aldie married to his half sister Sibilla. MacKenzie

certainly benefited as a lawyer from being a member of such a large family which was connected through marriage to a large number of other important families in the north of Scotland. The majority of MacKenzie's clients were therefore direct kinsman and kinswomen or related to him through marriage. The importance of kinship in conditioning the Highland chief-lawyer relationship in the later 17th century is further emphasised by the study of the clients of John MacKenzie.

However MacKenzie acted for other clients who do not seem to have been related to him. He was a legal adviser for a number of Fraser gentry, the third and fourth baronets of Sleat and other MacDonalds, Lachlan MacKinnon of Corriechatachan, Lachlan MacIntosh of Daviot, Alexander Robertson of Faskally and others listed in Appendix 7.⁶⁹ This grouping did make up quite a considerable section of MacKenzie's client base, about 20%, and MacKenzie must have relied on his reputation as a skilled lawyer and his connections through his position as a clerk of the Court of Session, to attract these clients as opposed to pure kindred connections.

It can be seen from Appendix 7 that the vast majority of MacKenzie's clients were members of the Highland landowning class but he also worked for others outside this group including a number of Highland ministers: Alexander Cooper minister at Stornoway, Alexander Munro, Hugh Munro minister of Durness, Aeneas Morrison minister at Contin and Strathgarve, Alexander MacKenzie minister of Newtyle and John MacKenzie archdeacon of Ross.⁷⁰ There are indications too that MacKenzie worked for individuals further down the social scale but the evidence is often a single letter in the Delvine Papers which makes such individuals very difficult to identify. It was probably mostly through the landowning elite that those lower down the social scale gained access to the advice of John MacKenzie. For example on 19 January 1684 MacKenzie's sister Christian wrote to him the following from Inverness: "I spoke to

Erchet concerning his Man and he said he would wreat to you himselfe to defend him".⁷¹ This was before John MacKenzie became a clerk of the Court of Session and so he was able to defend clients in the court himself. William Fraser of Erchitt was a kinsman of Fraser of Lovat. On 31 October 1685 John Munro of Foulis wrote to inform MacKenzie that one of his tenants would be seeking MacKenzie's legal expertise: "Finlay McDonald vick Finlay in Kaldie being necesitat to ryse a suspenssion against a charge of lawborrowes given him at the instance of Lauchlein McIntosche of Kinrara". Munro continued saying that "although this Finlay be not a great heritor I assure you he will be a honest payer and client".⁷² This is an interesting indication of the way in which a non-elite Highlander might gain access to the Edinburgh legal profession in the 1680s and it is surely significant that such an individual was employing an advocate at this time indicating that the legal profession were not solely representing the interests of the elite of Scottish society.

MacKenzie acted as the legal agent for a large number of Highland and Island kindreds: MacKenzie, MacDonald, Munro, Ross, Fraser, MacIntosh, Chisholm, MacKinnon, Gordon and Robertson.⁷³ For so many members of different kindreds to utilise the services of one lawyer must be an indication that political and social relations between these various kindreds were relatively good by the 1680s and 1690s. If there had been poor relations involving prolonged feuding or even suspicious relations, it is inconceivable that they would have employed the same lawyer to manage their legal affairs and have knowledge about what in many circumstances must have been information that chiefs would have preferred to remain private. This must be taken therefore as further evidence that inter clan rivalry was diminishing in the course of the 17th century as has been convincingly argued by MacInnes.⁷⁴

There is a distinct geographical spread to the Highland clients of John MacKenzie. Most of them are from the Northern Highlands with the exception of the Robertsons of Faskally who were based in the Central Highlands, reflecting the geographical position of the MacKenzies and their neighbouring kindreds. It is noticeable that John MacKenzie generally did not act as the legal agent of any Campbells: Anna Countess of Argyll in the 1690s⁷⁵ and John Campbell first Earl of Breadalbane between 1709 and 1711⁷⁶ are the only brief exceptions. This may be partly due to geographical factors but it is surely also an indication of the political spheres of influence into which the Highlands was divided in the later 17th century: the Campbells of Argyll and their many cadets forming a large Campbell sphere of influence and the kindreds of the Northern Highlands and Islands an opposing anti-Campbell grouping. There were of course Campbell advocates and lawyers to look after the legal affairs of the Campbell kindred in Edinburgh as we have already seen.⁷⁷

Family rivalries did continue at times however to affect the appointment of lawyers in Edinburgh. Sir Donald MacDonald of Sleat told John MacKenzie in a letter of 17 January 1694: "It is not proper Mr MacLeod be employed in this affair lest it may be a mean to disoblidge his relations".⁷⁸ Mr MacLeod was an Edinburgh advocate often used by John MacKenzie to represent his clients in the central courts where he could not appear himself.⁷⁹

CONCLUSIONS

The above analysis has shown that the Delvine Papers allow us to examine in considerable detail the relationship between the advocate John MacKenzie and his clients in the 1680s and 1690s. MacKenzie carried out a broad range of services for

his clients: the strictly legal side included conveyancing, criminal work, marriage law and most importantly the management of the legal problems ensuing from indebtedness. MacKenzie also oversaw the financial affairs of his clients whether paying taxes, selling the produce of his clients' lands or giving advice on whether to invest in the Company of Scotland. An important aspect of his work for his clients was making use of his connections with figures in the government and in the legal establishment to secure favours for clients whether promotion in the army or entering a son into the legal profession in Edinburgh. MacKenzie also acted as a permanent presence for his clients in Edinburgh making purchases for them that could not be secured outside the capital and providing them with information and news about the events of the day.

Our discussion has also focused on the client base of MacKenzie in the 1680s and 1690s and it has been shown that the majority of his clients were related to him; many were MacKenzie kinsmen and kinswomen and others were related to him through marriage. Kinship was therefore the major factor determining the lawyer-client relationship of John MacKenzie and so we can regard MacKenzie as an example of the Gaelic speaking "clan lawyers" who worked in Edinburgh in the later 17th century. We know for sure that MacKenzie was a native Gaelic speaker as he was sent an Irish bible by Colin Campbell of Carwhin and was described as "one verie expert in the Irish tongue".⁸⁰ MacKenzie also had a significant number of clients who were not related to him and who must have been attracted to him because of his skills as a lawyer and the strength of his political connections. It has also been shown that he worked for a number of Highland ministers and a few Highlanders who were not from the landowning class and that the majority of his clients came from Highland areas outside Campbell influence. His employment by a large number of Highland kindreds of the Northern Highlands reveals that old clan antagonisms within the area were certainly of

far less importance by the later 17th century. The study of the career of John MacKenzie advocate therefore provides us with a detailed example of one of the most successful "clan lawyers" of the later 17th century.

¹ Prest, *Lawyers*, 13.

² For the history of the Delvine Papers see Munro, *Clansmen and Clients*, 36.

³ The 115 volumes does not include the Robertson of Faskally family papers which form part of the collection.

⁴ Alexander MacKenzie, *History of the MacKenzies*, (Inverness, 1894), 604-8.

⁵ NLS Delvine Papers, MS 1361, f4.

⁶ Peter John Gordon(ed.), *Officers and Graduates of University and King's College Aberdeen, New Spalding Club*, (Aberdeen, 1893), 211.

⁷ NLS Delvine Papers, MS 1332 f69.

⁸ *Faculty of Advocates*, 135.

⁹ *Faculty Minute Book*, 59.

¹⁰ *Ibid.*, 60-1, 64.

¹¹ *Ibid.*, 61, 65.

¹² NLS Delvine Papers, MS 1361 f8.

¹³ Athol L. Murray, "The Lord Clerk Register", *SHR*, liii, (1974), 141-3.

¹⁴ MacPherson, *Loyal Dissuasive*, 144.

¹⁵ NLS Delvine Papers, MS 1384 f26-7.

¹⁶ Dunlop, *Chief and Lawyer*, 261.

¹⁷ William Kirk Dickson(ed.), *Letters to John MacKenzie of Delvine*, Scottish History Society, third series, xxi, (Edinburgh, 1933), 197.

¹⁸ See Dunlop, *Chief and Lawyer* and Munro, *Clansmen and Clients*. Both these articles are genealogical in approach.

¹⁹ NLS Delvine Papers, MS 1313 f20.

²⁰ Dunlop, *Chief and Lawyer*, 261.

²¹ NLS Delvine Papers, MS 1104 f6.

²² *Ibid.*, MS 1275 f42.

²³ *Ibid.*, MS 1345 f1.

²⁴ *Ibid.*, MS 1346 f217.

- ²⁵ Ibid., MS 1250 f22.
- ²⁶ Ibid., MS 1356.
- ²⁷ Ibid., MS 1372 f54-5.
- ²⁸ Ibid., MS 1314 f8, 10.
- ²⁹ Ibid., MS 1339, f26.
- ³⁰ Ibid MS 1105, f138.
- ³¹ Ibid., MS1343, f3.
- ³² Ibid., MS 1345, f10.
- ³³ Other instances relating to debt management include MS 1117 f17-18, MS 1221 f3-4, MS 1250 f24, MS 1275 f3, MS 1281 f26, MS 1329 f28-9, f32-7, MS 1331 f11, are a few of the examples.
- ³⁴ Infra, 217-48.
- ³⁵ Infra, 217-48.
- ³⁶ Ibid., MS 1323 f1.
- ³⁷ Ibid., MS 1325, f7, f8.
- ³⁸ Ibid., MS 1333, f116.
- ³⁹ Ibid., MS 1343, f8.
- ⁴⁰ Ibid., MS 1373, f47-8.
- ⁴¹ Ibid., MS 1373, f49-50.
- ⁴² William Ferguson, *Scotland 1689 to the Present*, (Edinburgh, 1968), 27-32.
- ⁴³ Ibid., MS 1250, f1.
- ⁴⁴ Ibid., MS 1319 f1.
- ⁴⁵ Ibid., MS 1305 f55.
- ⁴⁶ Supra, 165.
- ⁴⁷ SRO Delvine Papers, MS 1250, f20.
- ⁴⁸ Ibid., MS 1250, f26.
- ⁴⁹ Ibid., MS 1311, f30-1.
- ⁵⁰ Ibid., MS 1340, f3.
- ⁵¹ Ibid., MS 1373, f41.
- ⁵² Ibid., MS 1329, f6-8.
- ⁵³ Ibid., MS 1339, f20.
- ⁵⁴ Ibid., MS 1332, f5.
- ⁵⁵ Ibid., MS 1376, f61.
- ⁵⁶ Ibid., MS 1496, f13.
- ⁵⁷ Ibid., MS 1262, f3.

- ⁵⁸ Ibid., MS 1280, f36.
- ⁵⁹ Ibid., MS 1280, f44.
- ⁶⁰ Ibid., MS 1300, f11.
- ⁶¹ Ibid., MS 1376, f57.
- ⁶² For example Ibid., MS 1275, f130, MS 1294, f70, MS 1319, f1.
- ⁶³ Infra, 195-216.
- ⁶⁴ Infra, Appendix VII, 293-7.
- ⁶⁵ Ibid., 293-7.
- ⁶⁶ G. Brunton and D. Haig, *An Historical Account of the Senators of the College of Justice*, (Edinburgh, 1832), 474-5.
- ⁶⁷ Supra, 92-9.
- ⁶⁸ Infra, Appendix VII, 293-7.
- ⁶⁹ Ibid., 293-7.
- ⁷⁰ Ibid., 293-7.
- ⁷¹ NLS Delvine Papers, MS 1262, f3.
- ⁷² Ibid., MS 1391, f26.
- ⁷³ Infra, Appendix VII, 293-7.
- ⁷⁴ Allan I. MacInnes, "Repression and Conciliation: The Highland Dimension 1660-1688", *SHR*, lxxv, 1986, 168-9.
- ⁷⁵ NLS Delvine Papers, MS 1247 f8.
- ⁷⁶ Ibid., MS 1247, f70-6.
- ⁷⁷ Supra, 65-107.
- ⁷⁸ NLS Delvine Papers, MS 1307, f114.
- ⁷⁹ Dunlop, *Chief and Lawyer*, 261.
- ⁸⁰ D. MacLean, "The Life and Literary Labours of the Rev. Robert Kirk, of Aberfoyle", *TGSI*, xxxi, (1922-4), 342.

CHAPTER 7: LEGAL FEES AND MONEYLENDING

This chapter considers two important aspects of the relationship between Highland chiefs and the Edinburgh legal profession. Firstly the costs incurred by Highland chiefs when employing Edinburgh lawyers will be considered and secondly moneylending by Edinburgh lawyers to the Highland elite will be examined since it has already been shown that the management of debt was an important aspect of the relationship between chief and Edinburgh lawyer.¹

LEGAL FEES

In his *"Scotland, A New History"* Lynch states that "the seventeenth century saw the spectacular rise of the legal profession" and that "with greater organisation as a profession and fatter fees, there came a rise in status, both in town and country".² The subject of legal fees and how they changed during the early modern period in Scotland has however received little detailed attention from historians. This is partly because the legal profession as a whole has been under studied but it is also due to the scattered nature of the sources for the study of legal fees; odd references here and there mostly in family muniments. This section does not aim to give a detailed account of the fees charged by Scottish lawyers in the early modern period in the way that Prest has done for the English legal profession³; this would require a search through the muniments of most of the Lowland nobility and the records of Scottish lawyers which is outside the scope of this study. This section aims to examine the legal fees Edinburgh lawyers charged Highland chiefs in the period from c1550 to 1700 and so determine how much of a financial burden the employment of lawyers in Edinburgh was for the chiefs.

Legal expenses were composed of two distinct parts. Firstly the fee paid to the lawyer in the form of a pension or a consultation fee and secondly the costs of the legal process; made up of sums for seeing a particular case through the courts or for the registering of particular legal documents. However it is not always clear from references to legal expenses in the sources how much was being paid for the lawyer's fee and how much for the costs of the legal process.

c1550 TO 1600

The testament of George Earl of Caithness, who died on 9 September 1582, indicates that at the time of his death he owed £5 to Mr John Moscrop advocate in Edinburgh for his annual pension and fee, the same sum to Mr John Skene advocate and 5 merks to Mr Richard Strang advocate for his annual pension and fee. Other debts listed in this testament included £16 to James McCartinay writer in Edinburgh for his pension and fee for the four years from 1579 to 1582, at £4 each year, and £16 6s 8d to John Johnston writer in Edinburgh and clerk of the Edinburgh commissariot but it is not specified what this sum covered.⁴ This evidence indicates that these lawyers were paid a flat rate for a year's work and that they were paid in arrears. James McCartinay had to wait a number of years before he was paid from the estate of his dead client.

Discharges in the Breadalbane Muniments reveal that Sir Duncan Campbell of Glenorchy was paying an annual pension of £10 to the advocate Mr Oliver Colt between the years 1592 and 1615,⁵ and a case raised by Colt before the Court of Session on 21 December 1610 concerned with the payment of this pension reveals that the pension had been paid to Colt from 1584.⁶ As Colt stated in a discharge to Sir Duncan Campbell of Glenorchy of 19 July 1615, the pension was "grantit be the said

noble lord....to me in lyfrent for all the dayes of my lyf tyme".⁷ A set fee for life gave the lawyer security but would benefit the client in an environment of inflation such as was the case in the later 16th and early 17th century. For example the price of grain increased by six times between 1550 and 1600.⁸

On 13 January 1582 James MacCartinay raised a case in the Court of Session against John Campbell of Lawers regarding the payment of a £3 yearly pension promised to him by a bond of 8 February 1566. The pension was described as being for legal services in Edinburgh.⁹

Only a small amount of evidence has been discovered relating to the fees that Edinburgh lawyers charged Highland chiefs in the period from c1550 to 1600. The fee involved a yearly pension with sums in the range from £3 to £10. These sums probably represented the typical figure for the employment of an Edinburgh lawyer in the later 16th century. The daily wage of Edinburgh masons rose from 4s in 1553 to 8s 4d in 1596¹⁰ indicating that in the late 16th century a mason could earn around £2 for a week's work and that lawyers were not being paid sums that were hugely higher. Some lawyers could, however, gain higher fees by working for more illustrious clients. In 1583 James VI laid out instructions for the education and maintenance of Ludovick 2nd Duke of Lennox. The Duke's legal affairs were to be managed by the advocates Mr John Scharp and Mr John Russell, and the Writer to the Signet Henry Wardlaw who were to receive annual pensions of £30, £20 and £50 respectively.¹¹

1600 TO 1650

More evidence has survived about legal costs for this period. An account of 1618 reveals the expenses incurred by Sir Duncan Campbell of Glenorchy when employing the Edinburgh writer Anthony White. For example it includes the following costs: "Item for writting of ane discharge be the erll of Glencairn and his sone...to the laird 40s"; "Item for writting of ane Inhibitioun aganis the Laird of Strowane Robertson 14s 4d" and "Item for registrating of the contract of marrage £4".¹² The total sum due to Anthony White for this account was £13 9s 8d.¹³ Another bill of White's for Sir Duncan Campbell of Glenorchy was for £3 18s which was paid in 18 February 1623¹⁴ and a further one for £9 12s paid on 27 November 1623.¹⁵

An account of 1610 by Mr David Primrose advocate who worked as the legal agent of Sir Duncan Campbell of Glenorchy in the early 17th century was £93 7s 8d.¹⁶ Another account by David Primrose in 1611 totalled £49 and included "Item to James Prymrois for raising ane comission to execut ane mcgregor...£4 16s".¹⁷ James Primrose was clerk of the Privy Council and the uncle of David Primrose. In 1613 an account of Mr David Primrose came to £416 8s 4d revealing how there might be large yearly fluctuations in the legal expenses facing an Highland chief.¹⁸

Other chiefs were also facing substantial legal expenses in the first half of the 17th century. In 1617 money that was brought to Edinburgh for MacLean of Duart by his servants Thomas Tweedie, John MacLean and John MacEwen included a sum of 100 merks for Alexander Cunningham the Edinburgh writer who was acting as MacLean of Duart's legal agent in the capital.¹⁹ It is not clear what exactly this sum covered. It

may have paid for Cunningham's fee as well as the costs of taking cases through the courts or have covered the costs of conveyancing. Detailed accounts prepared by the Edinburgh advocate John MacLey in 1636 and 1637 for John MacLeod of Dunvegan are printed in the "Book of Dunvegan". They reveal that the expenses incurred by MacLeod during these years came to £3632 9s 4d.²⁰ These were not purely legal expenses but included sums of annual rents on outstanding debts, tack duty, costs of legal process and legal fees.

A discharge of 19 June 1622 indicates that MacLeod of Dunvegan was paying a yearly pension of 50 merks to the Edinburgh writer Alexander Cunningham²¹ and a discharge of 21 November 1626 that Mr David Primrose was paid a pension of 100 merks by Sir Duncan Campbell of Glenorchy.²² Archibald Campbell, the brother of Campbell of Lawers, who acted as a legal agent for the Campbells of Glenorchy in Edinburgh in the 1630s and 1640s was paid a pension of 500 merks each year.²³ A pension of 50 merks was being paid to John Nicoll by MacLeod of Dunvegan in 1629 and 1630.²⁴ By 1633 this had risen to 100 merks.²⁵ The Edinburgh advocate John MacLey was paid £100 for "thrie termes pensione at 50 marks termelie" by MacLeod of Dunvegan in 1636.²⁶ In 1638 Campbell of Cawdor was paying the following pension to his Edinburgh lawyer: "Item givin to Mr Rodger Mowatt advocat for the pryce of twa ky in name of pension £26 13s 4d".²⁷ This indicates that some lawyers might receive payment in kind in the mid 17th century and this form of payment continued into the 18th century. The Edinburgh advocate John MacKenzie, who was a younger son of MacKenzie of Coul, received payment from Robert MacGregor, alias Campbell (Rob Roy) in this way in 1706. MacGregor wrote to MacKenzie from Doun wishing a delay in settling his account with MacKenzie and as part payment sending with the bearer of the letter "ane of the best cowes that was att the mercat here".²⁸ In 1639 Campbell of Cawdor paid £40 to the Edinburgh writer William Inglisch "for

trying quher the lairdis trunk and chartor kist was and for finding thame out in Edinburgh".²⁹ This is a reflection of the chaotic state of the record keeping of the Campbells of Cawdor in the early 17th century. These figures reveal that pensions had increased substantially from the ones being paid in the later 16th century.

During this period there is also evidence of the sums paid by chiefs for consultations with advocates who were not employed on a permanent basis by the chief but who were called on to give advice on a particular case. The Dunvegan Accounts reveal that £18 18s was paid to an unnamed advocate for a consultation in 1636 by MacLeod of Dunvegan.³⁰ In 1638 Campbell of Cawdor paid £54 to the Lord Advocate for two consultations about affairs relating to his estate.³¹

A source which gives a detailed breakdown of the legal fees facing an Highland family is the "Accounts by Gregor Grant of his Expenditure on behalf of Sir John Grant of Mulben, younger of Freuchie, in two journeys to Edinburgh in 1620".³² This source provides a fascinating glimpse of the costs incurred by a Highland Chief's son on travelling to and staying in Edinburgh. It also provides evidence about the legal costs that could be incurred by an Highland kindred at this time. "Item, upoun, Wednisday, the 16 day, thair wes ane consultatioun with the advocattis befor the calling of the reductioun". This involved considerable expense: "to Mr Thomas Hope twa peces....£26 13s 4d, to Mr Thomas Nicolson twa roisnobles....£21 6s 8d, to Mr James Oliphant twa roisnobles at £21 6s 8d , to Johnne Belscheis ane duble angell at....£13 6s 8d. Item to Mr Thomas Hopes man £3 6s 8d, to Mr James Oliphantis man, Mr Alexander Cheyne, wha hade the haill proces in keping £5, to Mr Thomas Nicolsones man £3 6s 8d".³³ This gave a total expenditure on consultation fees for this day of £94 6s 8d. Legal expenses continued to mount up during the rest of his time in Edinburgh. On the 18th day since leaving the Highlands, £40 was paid to Mr

Alexander Gibson clerk and the next day £10 13s 4d to Mr John Skene Clerk of the Bills for passing a suspension against Mr William Clogie.³⁴ On Tuesday 22 February £10 13s 4d to the Clerk of the Bills for passing another suspension.³⁵ Still more legal expenses were incurred on 25th February: "gevin to the (Lord) advocat for calling of caus....£66 13s 4d", £18 13s 4d to Mr Thomas Hope, £13 6s 8d to Mr Thomas Nicolson, £13 6s 8d to Mr James Oliphant, £6 13s 8d to the macers of the Court of session and 24s "to the belman for halding bak the twelft hour till the caus wer reasoned at lenthe".³⁶ On the last day of February a further large sum of £333 6s 8d was paid to the advocates: "Item our act of litiscontestatioun being buikit and extractit, at quhilk tyme advocatis favour keithit wes rememberit, gevin the samin day in consideratioun of the samin".³⁷ The 15th and 16th of March saw more expenditure on legal fees.³⁸ Finally for an afternoon's consultation on Saturday 25th March the sums of £26 13s 4d, £17 6s 8d and £13 6s 8d were given to the advocates Hope, Nicolson and Oliphant and £26 13s 4d given to the clerk's son Mr Alexander "for his paynis in solisting and making ane grite number of the lordis upon our syde".³⁹ The entire expenditure on legal business on both journeys to Edinburgh the first in February and March 1620 and the second in June and July came to £1358 6s 5d. This sum includes fees paid to advocates and writers, amounts given to their men, the costs of legal processes and miscellaneous expenses such as paying for witnesses to travel to Edinburgh. These accounts reveal very clearly the substantial sums that an Highland chief might have to spend on taking cases through the central courts in 1620 and secondly they highlight the large sums of money being made by some Edinburgh lawyers, especially the advocates, at this time.

On 5 September 1627 W.Hay wrote the following from Edinburgh to Rose of Kilravock: "I have debursit to ilk ane of the advocattis ane angell; to the wreitter for the twa summondis £4; and to his man 12s. This is the fruittis of processis".⁴⁰ The

evidence that has been surveyed for the period from 1600 to 1650 reveals that the "fruitts of processis" had increased significantly from the period c1550 to 1600. Even taking into account the effects of inflation comparing a pension of £5 for a year in the later 16th century with afternoon consultation fees of £26, even assuming considerable preparation work by the lawyer, reveals a startling escalation in the earning power of Edinburgh advocates during these years.

The daily wage of a mason in Edinburgh was between 10s and 12s in the years between 1611 and 1629 and the daily wage of a building labourer remained between 4s and 6s in the period from 1594 to 1639.⁴¹ It would take a mason around 52 working days to earn the same amount that an advocate might earn (£26) for one consultation. The gap between the earning power of the Edinburgh advocates and other workers in the capital was widening considerably in the early 17th century.

It has also been shown that a combination of legal fees including pensions and consultation expenses and the costs of the legal process could involve chiefs incurring substantial legal expenses; the exact amounts varying greatly from year to year. The Highland chiefs were faced with escalating legal costs in the early years of the 17th century just at the same time that they became more likely to pursue more cases through the central courts in order to settle their disputes. Many chiefs were often forced to borrow money in order to pay these higher costs and it is argued later that this was one of a number of factors which led to an increased level of indebtedness amongst the Highland elite in the 17th century.⁴²

1650 TO 1700

Discharges in the MacLeod Muniments show that Mr John Bayne of Pitcairly was being paid a pension of £100 a year in 1675 and 1676.⁴³ In 1675 Hector MacLean of Lochbuy was paying "ane hundred merks Scots money of yearly pension" to the Edinburgh writer Mr Alexander MacKenzie for attending all his actions before the Lords of Council and Session.⁴⁴ A letter of pension by James Earl of Perth to Sir James Grant of Dalvey advocate of 15 July 1693 put his annual pension at 200 merks.⁴⁵ In 1685 the advocate Mr Alexander MacLeod became the legal manager of the MacLeod estates of Iain Breac and he was to serve three later chiefs until 1726.⁴⁶ A bond of pension of 1685 shows that Iain Breac bound himself and his heirs to provide Mr Alexander with a pension of 300 merks annually.⁴⁷ The range of pensions from 100 merks to 300 merks seems to have been a typical yearly fee for the employment of an Edinburgh lawyer in the later 17th century.

The cost of consultations with advocates were as follows. In 1661 Ross of Balnagown paid "to Mr Jon Cunningham quhen the Laird went to consult with him....£25".⁴⁸ In 1680 MacLeod of Dunvegan was charged £29 by his advocate for pleading for him and £14 8s for a consultation with him.⁴⁹ The "Accounts of a Doer" include the costs of a number of consultations with Edinburgh lawyers: £30 15s for a consultation with the King's Advocate in February 1695, £13 4s for one with Mr Robert Stewart junior in the same month, £18 18s to Mr John Murray and his servants in January 1696 and £14 10s to Mr John Murray in December 1697.⁵⁰ It does not appear therefore that there was any increase in the fees that advocates were charging in the period from c1620 to the 1690s.

The "Accounts of a Doer" provide a broad view of the incomings and outgoings in the finances of a late 17th century Island Chief. Of particular interest is the "Accompt of Money Debursed for the Laird of Macleod in the pursuite agst McIntosh for the Lands of Contullich" which provides the sums spent on one particular legal case from 1694 to 1697. The total outlay on this case came to £389 7s 2d.⁵¹

The above evidence suggests that consultative work by advocates was the best paid. It also indicates that the later 17th century did not see the sudden surge in legal fees that had taken place at the beginning of the century; consultations with advocates were not any more expensive in the 1690s than they had been in the 1620s and pensions had not increased greatly. Other workers experienced little increase in their wages at this time. Gibson and Smout have demonstrated that a stagnation in the wages of skilled building workers occurred between the mid 17th and mid 18th century.⁵²

CONCLUSIONS

The above discussion has revealed a sharp increase in the fees that Edinburgh lawyers were paid by Highland chiefs in terms of pensions and consultation fees between the later 16th century and the early 17th century. There seems to have been no increase in consultation fees and only a moderate increase in the level of pensions between the early 17th century and the later part of the century. The high sums being earned by Edinburgh advocates for consultations in the period c1600 to 1650 have also been highlighted. The substantial costs involved in taking legal cases through the central courts or in undertaking the process of conveyancing have been described. The fact

that legal expenses might vary considerably from year to year and the difficulties that this might lead to when organising the finances of a chief has been stressed.

At a time of inflation in the economy and the rapidly growing prestige of the legal profession in the later 16th and early 17th century which was associated with the increased authority of the law and the central courts, the legal profession were able to command higher levels of pensions and consultation fees as it became more common for people to take cases to court and demand for their services increased sharply. This was particularly the case with the advocates who seem to have increased their fees remarkably and emerged by the 1620s as an immensely strong elite within the legal profession. As Highland chiefs forged a closer relationship with the Edinburgh legal profession in the years before the Covenanted Wars⁵³ they were faced with rising legal fees and substantial costs associated with using central justice.

The later 17th century did not witness an inflation in legal fees. This was partly due to the general economic environment in Scotland after 1660 but may also reflect the expansion of the legal profession in the later 17th century which gave rise to a larger supply of advocates and writers and acted to contain the price of fees.

MONEYLENDING

After the Reformation in Scotland legislation was passed legalising moneylending and extending protection to creditors. As a result a debt market began to develop in Scotland.⁵⁴ In his thesis "The Social, Political and Economic Influences of the Edinburgh Merchant-Elite, 1600-1638" Brown has revealed the importance of moneylending for the merchant elite in the first half of the 17th century.⁵⁵ In this section the importance of moneylending as an aspect of the relationship between Edinburgh lawyers and Highland chiefs will be assessed.

No evidence of moneylending by Edinburgh lawyers to Highland chiefs in the years from c1550 to 1600 has been found in the sources examined during this study. This is in line with Brown's work on the lending habits of the Edinburgh merchants in the 16th century: "Edinburgh's wealthiest men of the 16th century, who kept very little cash on hand, and were not involved prominently in money-lending".⁵⁶

There is a substantial amount of evidence, however, which indicates that Edinburgh lawyers were lending money to Highland chiefs in the period from 1600 to 1650. On 29 November 1603 a bond was registered in the Books of Council and Session showing that Duncan Campbell of Glenlyon had borrowed 100 merks from the Edinburgh advocate Mr Oliver Colt⁵⁷ and in 1604 Sir John Campbell of Lawers borrowed £152 from the Edinburgh writer Anthony White.⁵⁸ The testament of Lachlan MacIntosh of Dunnachton, who died on 15 October 1606, reveals that he had

borrowed heavily from Edinburgh lawyers. The debts owed by him at the time of his death included: "to Adame Couper writer in Edinburgh £2000", "to William Liddell and (missing) writters in Edinburgh £665 13s 4d" and " to Mr Alexander Guthrie writer in Edinburgh £666 13s 4d".⁵⁹ A bond which was registered on 14 October 1617 reveals that Duncan Campbell of Glenlyon had borrowed £262 from Robert Mudie writer in Edinburgh⁶⁰ and in the same year Sir John Campbell of Cawdor owed the large sum of 48,500 merks to the advocate Mr John Rollock.⁶¹ Members of the clan gentry were also borrowing from the Edinburgh legal profession. In 1626 Alexander Robertson of Lude was indebted to Anthony White WS. The discharge by White of £200 in part payment of a bond, survives in the Robertson of Lude Family Papers.⁶²

Towards the end of this period moneylending by Edinburgh lawyers to members of the Highland elite increased. The testament of Sir John Grant of Freuchy shows that in 1637 he owed 3550 merks and two years interest on two bonds to the advocate James Gibson.⁶³ The advocate Mr Rodger Mowat was actively involved in moneylending in the 1630s and 1640s: lending 3000 merks to Sir John Campbell of Cawdor in 1633⁶⁴, 2000 merks to Mungo Campbell of Lawers in 1639⁶⁵, £430 to the Captain of Clanranald in 1630⁶⁶ and 1000 merks to James Lamont of that Ilk in 1638.⁶⁷ In 1643 Mowat lent 20,000 merks to Sir Robert Campbell of Glenorchy.⁶⁸

A discharge of 31 May 1636 reveals that John MacLeod of Dunvegan had borrowed 5000 merks from the Edinburgh lawyer John MacLey⁶⁹ and in 1639 the Captain of Clanranald borrowed 500 merks from John McRannald writer in Edinburgh.⁷⁰ In 1644 John Campbell younger of Cawdor borrowed £254 from John Nicoll WS⁷¹ and in 1645 Sir Duncan Campbell of Auchinbreck borrowed 3000 merks from the same

lawyer.⁷² A bond of 9 February 1649 indicates that Sir John MacKenzie of Tarbat had borrowed 8000 merks from Robert Byres advocate.⁷³

The rise of moneylending by Edinburgh lawyers to Highland chiefs can be placed therefore in the years immediately following 1600. This is not to say that Highland chiefs never borrowed from lawyers before this date; they may have done so but no evidence has been found in the course of this study. It is clear from the surviving sources, however, that moneylending by Edinburgh lawyers became common in the early years of the 17th century. These years also saw the rising importance of moneylending for the Edinburgh merchant elite. Members of the Edinburgh legal profession were investing in the debt market the sums they were earning from their higher level of fees.⁷⁴ It was natural that as the relationship between Highland elite and Edinburgh legal profession became closer in the early 17th century, Edinburgh lawyers would aim to make more money from these clients. The testaments of two of the lawyers mentioned above reveal that they had engaged in a substantial amount of moneylending which must have been earning a healthy amount of interest. The Edinburgh advocate Mr David Primrose's testament shows that at the time of his death in 1651 the debts owed to him were £8,356 13s 4d. These included sums due to him from Lord Broomhall, the Earl of Wemyss, Sir George Morrison of Darsie, Campbell of Glenorchy, the Earl of Airth and Mr John Hepburn of Gilmerton.⁷⁵ The testament of Sir Archibald Campbell the brother of Campbell of Lawers who worked in Edinburgh as an agent for the Campbells of Glenorchy in the 1630s and 1640s reveals a similar picture. At the time of his death in September 1645 he was owed the following sums: two bonds of £2000 and 10,000 merks by Sir James Murray, 12,000 merks by the Earl of Queensberry, 4000 merks by Lord Napier and a number of smaller sums under £100.⁷⁶

The Covenanting Wars had a major effect on the moneylending activity of the legal profession and others involved in the Edinburgh debt market. The level of rents of most Highland chiefs were severely reduced during this period because the Highlands were the focus of much of the fighting; the Marquess of Argyll's raids into Atholl in 1640, the Montrose Campaigns of 1644-5 and the Glencairn Rebellion of 1653-4 produced major dislocation of the Highland economy.⁷⁷ Chiefs were unable to keep up the interest payments on their debts and creditors were forced to raise apprisings on the chiefs' estates to recover some of their money. For example the Edinburgh writer William Downie apprised the lands of George Earl of Seaforth in 1649⁷⁸ and the Earl's lands were also appraised in 1650 by Mr Roderick MacKenzie writer in Edinburgh, the son of Alexander MacKenzie of Culcowie.⁷⁹ In 1648 Mr Rodger Mowat advocate appraised the lands of Sir Robert Campbell of Glenorchy for recovery of 20,00 merks.⁸⁰ The lands of the Campbells of Glenorchy had been devastated by the raids of Montrose and Alasdair MacColla in 1644 and 1645.⁸¹

There is a considerable amount of evidence of moneylending activity by the Edinburgh legal profession to the Highland elite in the later 17th century. For example in 1677 Duncan MacPherson of Cluny borrowed 400 merks from Mr Thomas Gordon WS⁸² and in 1689 Mr Alexander MacLeod advocate was being paid interest on a bond of 3650 merks by MacLeod of Dunvegan.⁸³ A list drawn up for the first Earl of Breadalbane in 1680 reveals that the Earl owed "great sums" to his Edinburgh legal agent Colin Campbell of Carwhin WS.⁸⁴

The moneylending activities of lawyers of Highland origin who were practicing in Edinburgh can be followed in the Register of Deeds. For example the Register of Deeds reveals that the Edinburgh advocate Mr John MacKenzie, who was the younger brother of MacKenzie of Coul and who worked for most of the MacKenzie cadet

branches and many other Highland kindreds in the later 17th century⁸⁵ was engaged in moneylending: 608 merks to Gilbert McStoker, drover in Kintyre in 1683, 300 merks to two Edinburgh burgesses George White and Walter Melville in 1691, £120 to Mr Kenneth MacKenzie minister of Fearne in 1691, 600 merks to Mr Alexander Crawford advocate in 1691 and 10,000 merks to Sir John Sinclair of Lochend in 1691.⁸⁶

A detailed study has been made of moneylending by MacKenzie lawyers based in Edinburgh from bonds registered in the Register of Deeds in the 1660s and 1670s. Moneylending by MacKenzie writers will be examined first. In the 1660s John MacKenzie younger writer in Edinburgh was owed the following sums: £22 by John Furd, 100 merks by John MacKenzie elder writer in Edinburgh, 500 merks by John Taylor of Sovarce, 223 merks by Alexander Chisholm of Comer, and 500 merks by Patrick Urquhart merchant burgess and bailie of Perth.⁸⁷ In the 1660s and 1670s Mr Colin MacKenzie writer in Edinburgh was owed 167 merks 6s 8d by George Munro appeirand of Lemlas, two bonds of £307 10s by Robert Munro and John Munro of Foulis, £400 by Sir John Urquhart of Cromartie, 100 merks by Rorie MacKenzie of Davochmaluag, £157 sterling by George Grahame in Blacksark, £464 10s by two fleshers in Tranent and 900 merks by James Monteith flesher in Falkirk.⁸⁸ Mr Alexander MacKenzie writer in Edinburgh⁸⁹ and George MacKenzie writer in Edinburgh were also actively involved in moneylending in the late 1660s and 1670s.⁹⁰ The MacKenzie writers in the 1660s were therefore an important source of credit for a number of different individuals including some of the chiefs in the Northern Highlands. It is noticeable, however, that the amounts that were being borrowed were generally fairly low reflecting the financial position of the borrowers and a more careful approach to the art of moneylending after the excesses of the period before the mid century crisis and the collapse of the Edinburgh debt market.

An examination of the Register of Deeds reveals that two other MacKenzie lawyers were active moneylenders at this time; Sir George MacKenzie of Tarbat and Sir George MacKenzie of Rosehaugh. Sir George MacKenzie of Tarbat was lending sums in the late 1650s; in 1657 he lent £400 to Mr Thomas MacKenzie of Inverlavell⁹¹ and in 1658 £300 to Donald Warrand merchant in Forres.⁹² In the 1660s the Register reveals intermittent lending; for example £793 to William Dunbar in Oldmylne.⁹³ However during this period Sir George was borrowing more extensively than he was lending.⁹⁴

The MacKenzie lawyer most active in the debt market as a lender during the Restoration period was Sir George MacKenzie of Rosehaugh. A list of the large number of sums lent by him which have been found in the Register of Deeds in the 1660s is shown in Appendix VIII.⁹⁵ This reveals his active involvement in moneylending during the Restoration and the substantial amounts that he was lending especially to the North Highland chiefs and clan gentry. An inventory drawn up at the time of his death in 1691 indicates that those who owed sums of money to him included MacDonald of Sleat, the Master of Balmerino, Mr Alexander MacKenzie Sir George's brother, Lord Doune, Erskine of Dun, the 2nd Marquess of Montrose, MacKenzie of Gairloch, Sir John Drummond of Logiealmond, the Earl of Strathmore, the Earl of Errol, the Viscount of Kilsyth, Hallyburton of Pitcur, the Bishop of Ross, the Earl of Seaforth, Viscount Tarbat and many others.⁹⁶ Further evidence about the moneylending activity of Sir George is found in the Privy Council Register. A supplication to the Privy Council on 22 November 1677 indicates that he had been owed 22,000 merks by his late uncle Thomas MacKenzie of Pluscarden and had been forced to apprise the estate of Pluscarden to recover the debt.⁹⁷ Sir George therefore had no hesitation in making use of the debt laws against one of his kinsmen for the recovery of his money. On 1 October 1678 he again supplicated the Privy Council for a

warrant to inventory the charter chest of the estate of Cromarty: "he is a considerable creditor of the deceased Laird of Cromartie and has a gift of recognition of that estate".⁹⁸ Another supplication by him before the Privy Council on 16 August 1683 stated that he was "creditor to the sheriff of Bute and the Laird of Pitcurre in considerable sums".⁹⁹

The above evidence reveals that Sir George MacKenzie of Rosehaugh was actively engaged in extensive moneylending in the later 17th century. At the same time he was investing heavily in land; building up a landed estate in various parts of Scotland.¹⁰⁰ In the biography by Andrew Lang Sir George is portrayed as a cultured gentleman lawyer¹⁰¹ while in presbyterian tradition he has been portrayed as "bluidy" MacKenzie responsible for the deaths of Covenanting martyrs during the Restoration. Another aspect of his life therefore needs to be highlighted in order to obtain a more complete picture of this fascinating man; his role as an acute dealer active in the debt and land markets of late 17th century Scotland.

CONCLUSIONS

This section has analysed the role of moneylending in the relationship between Highland chiefs and the Edinburgh legal profession in the period from c1550 to 1700. In step with the lending habits of the most powerful Edinburgh merchants, increased lending activity by Edinburgh lawyers to Highland chiefs dates from the early 17th century. As their fees rose and their general level of wealth increased, lawyers would automatically look, in the days before banks, for some safe place to invest their excess capital. In the early 17th century at a time of economic optimism, lending to the Scottish nobility which included Highland chiefs, seemed a safe investment. The period

before the Covenantee Wars therefore saw extensive borrowing by Highland and Island chiefs from the Edinburgh legal profession.

In the 1640s and 1650s however political disruption and military campaigns severely damaged the Scottish debt market. Many nobles were unable to keep up payments of interest on their debts and creditors were often forced to raise appraisings on their lands to recover their money. Confidence was destroyed and as a result lending dried up.

This study has revealed that Highland chiefs continued to borrow from Edinburgh lawyers after 1660. A detailed examination of the moneylending activity of MacKenzie lawyers based in Edinburgh in the 1660s sustained this picture and highlighted the extensive moneylending activity of Sir George MacKenzie of Rosehaugh.

A major part of the financial resources of the Highland chiefs was therefore finding its way into the hands of the Edinburgh legal profession, either directly through legal fees or through interest payments, in the course of the 17th century.

¹ Supra, 180-1.

² Michael Lynch, *Scotland: A New History*, (London, 1991), 254.

³ W. R. Prest, "Counsellors' Fees and Earnings in the Age of Sir Edward Coke", in J.H.Barker(ed.), *Legal Records and the Historian*, (1978), 165-184.

⁴ SRO Commissary Court Records, CC 8/8/12, f43.

⁵ SRO Bread. Muns., GD 112/29/2/1-19.

⁶ *Clan Campbell*, viii, 186.

⁷ SRO Bread. Muns., GD 112/29/2/19.

⁸ A. J.S. Gibson and T.C. Smout, *Prices, Food and Wages in Scotland, 1550-1780*, (Cambridge, 1995), 6.

⁹ *Clan Campbell*, viii, 85.

- 10 Gibson and Smout, *Prices, Food and Wages*, 305.
- 11 Fraser, *Lennox*, ii, 455.
- 12 SRO Bread. Muns., GD 112/1/420.
- 13 Ibid., GD 112/1/420.
- 14 Ibid., GD 112/29/11/2.
- 15 Ibid., GD 112/29/11/4.
- 16 Ibid., GD 112/ 36/3/3.
- 17 Ibid., GD 112/36/3/5.
- 18 Ibid., GD 112/36/3/7.
- 19 RPC, first, xi, 38-9.
- 20 *Book of Dunvegan*, i, 200-202.
- 21 Ibid., i, 217.
- 22 SRO Bread. Muns., GD 112/36/3/13.
- 23 *Taymouth Bk.*, 81.
- 24 *Book of Dunvegan*, i, 223, 223-4.
- 25 Ibid., 226.
- 26 Ibid., 201.
- 27 *Cawdor Bk.*, 295.
- 28 NLS Delvine Papers, MS 1314, fl.
- 29 *Cawdor Bk.*, 298.
- 30 *Book of Dunvegan*, i, 200.
- 31 *Cawdor Bk.*, 296.
- 32 Fraser, *Grant*, iii, 322-334.
- 33 Ibid., 324-25.
- 34 Ibid., 325.
- 35 Ibid., 325.
- 36 Ibid., 325-6.
- 37 Ibid., 326.
- 38 Ibid., 327.
- 39 Ibid., 327-8.
- 40 *A Genealogical Deduction of the Family of Rose of Kilravock*, The Spalding Club, (Edinburgh, 1848), 316.
- 41 Gibson and Smout, *Prices, Food and Wages*, 305-6, 313-14.
- 42 *Infra*, 217-48.
- 43 *Book of Dunvegan*, i, 239.

- 44 SRO MacLaine of Lochbuie Muniments, GD 174/42.
- 45 Fraser, *Grant*, iii, 360-1.
- 46 Alick Morrison, "The Accounts of a Doer: Alexander MacLeod the 'Advocat'", *TGSI*, 1, 1976-1978, 101.
- 47 *Ibid.*, 104.
- 48 *Old Ross-shire*, i, 151.
- 49 *Book of Dunvegan*, i, 201.
- 50 Alick Morrison, "The Accounts of a Doer: Alexander MacLeod the 'Advocat'", *TGSI*, 1, 1976-78, 146-7.
- 51 *Ibid.*, 146-47.
- 52 Gibson and Smout, *Prices, Food and Wages*, 275.
- 53 *Supra*, 65-92.
- 54 Keith M. Brown, "Noble Indebtedness in Scotland between the Reformation and the Revolution", *Bulletin of the Institute of Historical Research*, vol.62, no.149, October 1989, 263.
- 55 James J. Brown, "The Social, Political and Economic Influences of the Edinburgh Merchant Elite, 1600-1638", (Edinburgh University PhD 1985), Chapter 5: The Growth and Development of Moneylending, 233-272.
- 56 *Ibid.*, 241-2.
- 57 *Clan Campbell*, vi, 81.
- 58 *Ibid.*, 84.
- 59 SRO Commissary Court Records, CC 8/8/43, f179-81.
- 60 *Clan Campbell*, vi, 157.
- 61 *Cawdor Bk.*, 241-2.
- 62 SRO Robertson of Lude Muniments, GD 132/191.
- 63 Fraser, *Grant*, iii, 230.
- 64 *Clan Campbell*, vi, 239-40.
- 65 *Ibid.*, vi, 276.
- 66 SRO Clanranald Papers, GD 201/ 1/26.
- 67 *Lamont Papers*, 195.
- 68 *Taymouth Bk.*, 96.
- 69 *Book of Dunvegan*, i, 227.
- 70 SRO Clanranald Papers, GD 201/1/53
- 71 *Clan Campbell*, vi, 300.
- 72 *Ibid.*, vi, 300.
- 73 SRO Cromarty Muniments, GD 305/1/148/46.

- ⁷⁴ Supra, 195-206.
- ⁷⁵ SRO Commissary Court Records, CC 8/8/67, f29-30.
- ⁷⁶ Ibid., CC 8/8/63, f21-2.
- ⁷⁷ MacInnes, *Clanship*, 88-121.
- ⁷⁸ RMS, 1634-1651, no. 2140.
- ⁷⁹ Ibid., 1652-1659, no. 440.
- ⁸⁰ *Taymouth Bk.*, 106.
- ⁸¹ Infra, 224.
- ⁸² SRO MacPherson of Cluny Papers, GD 80/115.
- ⁸³ *Book of Dunvegan*, i, 248.
- ⁸⁴ SRO Bread. Muns., GD 112/38/5/15.
- ⁸⁵ Supra, 174-94.
- ⁸⁶ SRO Register of Deeds, RD 4/63, 802-3, 4/69, 175-6, 4/70, 1019-21, 4/71, 577-8, 4/73, 819-20.
- ⁸⁷ Ibid., RD 2/7 927-8, 4/15 324, 2/15 493-4, 4/18 911-12, 4/19 798.
- ⁸⁸ Ibid., RD 2/17 793-4, 2/17 794-5, 2/29 139-40, 2/32 391, 2/33 543-4, 2/36 306-7, 2/37 436-7.
- ⁸⁹ Ibid., RD 2/35, 460-2, 4/41, 712-13.
- ⁹⁰ Ibid., RD 4/34, 404, 4/35, 330-1, 3/41, 170-1, 226-7.
- ⁹¹ Ibid., RD 4/2, 588-9.
- ⁹² Ibid., RD 4/2 726-7.
- ⁹³ Ibid., RD 2/17 77-78.
- ⁹⁴ Ibid., RD 4/11 389-90, 4/12 308, 2/13 22-24, 41-2, 2/14 60-1, 660-1, 4/16 906, 2/16 34-5, 2/18 554-5, 4/18 691, 2/21 822-3, 4/23 339,, 702, 2/25 135 are examples from the 1660s in the Register of Deeds.
- ⁹⁵ Infra, Appendix VIII, 298-9.
- ⁹⁶ J.W.Barty, *Ancient Deeds and Other Writs in the MacKenzie-Wharncliffe Charter-chest*, (Edinburgh, 1906), 49.
- ⁹⁷ RPC, third, v, 284.
- ⁹⁸ Ibid., third, vi, 28-9.
- ⁹⁹ Ibid., third, viii, 226.
- ¹⁰⁰ Barty, *Ancient Deeds*, 48-51.
- ¹⁰¹ Andrew Lang, *Sir George MacKenzie, King's Advocate, of Rosehaugh, His Life and Times 1636(?) - 1691*, (London, 1909).

CHAPTER 8: INDEBTEDNESS

Previous chapters have shown that one of the principal tasks that the Edinburgh legal profession undertook for their clients among the Highland elite was the management of debt.¹ It has also been shown that the Edinburgh legal profession acted as a major source of credit for Highland chiefs in the 17th century.² The extension of indebtedness is therefore an important aspect of the relationship between Highland chiefs and the Legal profession in early modern Scotland and will be considered more fully in this chapter. The indebtedness of chiefs will be studied by examining firstly the chronology of the accumulation of debts in the period from c1550 to 1700, secondly the causes of this higher level of borrowing and finally by looking at the effects of indebtedness on the Highland elite.

THE EXTENSION OF INDEBTEDNESS

Recent historians of the Highlands have highlighted the importance of debt as a factor affecting the lives of Highland chiefs in the 17th century but have not traced the problems of indebtedness back into the 16th century.³ Articles by Brown have analysed the importance of debt for the Scottish nobility as a whole in the period from c1560 to 1638⁴ and these have shown that many Scottish nobles were accumulating substantial debts and some were experiencing severe financial problems. The Scottish nobility seems to have been suffering from problems relating to indebtedness in the same way as other European aristocracies in the Early Modern Period.⁵ This section aims to determine whether the borrowing habits of the Highland chiefs corresponded with the rest of the Scottish nobility during these years and to what extent indebtedness was a problem for chiefs at this time.

Brown has shown that lending and borrowing money became easier after the Reformation in Scotland and this was reflected in laws relaxing the prohibition on usury and improving the rights of creditors.⁶ The main sources for the study of indebtedness amongst the Highland Elite in the 16th and 17th centuries are testaments, family papers and references in government records. The evidence that testaments provide about debt has been described as "one rather slippery kind of source material"⁷ and so must be considered alongside other pieces of evidence. The testament is basically a statement of the financial state of an individual at the time of death and so is not necessarily an indication of the financial position of the individual during their life. The testament consists of an assessment of the deceased's moveable assets set against his liabilities. The assets are divided into the inventory of his possessions and the debts owed to him. The inventory lists the moveable wealth of the dead ie livestock, victual, household goods and ready cash. Debts might include unpaid rents as well as money that had been lent by the deceased to others. The liabilities listed in the testament were made up of any sum of money owed by the dead; for example servants' unpaid fees and debts due to individuals, church and government.

Testaments reveal that some Highland chiefs were accumulating debts in the period from c1550 to 1600. John Earl of Atholl died on 25 April 1579 with debts of £2,300 13s 4d(7.2% of assets)⁸ and Colin Campbell of Glenorchy died on 11 April 1583 with debts of £941 13s 4d(19.9% of assets).⁹ John Grant of Freuchy died on 2 June 1585 with debts of £621 6s 8d(1.3% of assets)¹⁰ and Sir James Campbell of Arkinglass died on 20 February 1590 with debts of £2,136 13s 4d(36% of assets).¹¹ Testaments show that debts had been accumulated by some chiefs in the later 16th century but the levels noted above would not have caused any great financial difficulties. Stone suggests that

an annual burden of interest should not exceed a third of net disposable income to avoid financial difficulties.¹² It is not possible to establish net disposable income for Highland chiefs at this time because of a lack of the necessary source material and so we must rely on other evidence to establish if chiefs were experiencing major problems related to the level of their indebtedness.

Testaments also show that other chiefs in the later 16th century had not accumulated any debt or had very low levels at the time of their deaths. For example Archibald 5th Earl of Argyll(d.1573), Alexander 11th Earl of Sutherland(d.1594) and Dougall MacDougall of Dunolly(d.1590) all had no debts registered in their testaments.¹³ William Robertson of Struan died in January 1588 with debts of only £20.¹⁴

Other sources reveal that debt was the cause of financial difficulties for some Highland chiefs in the second half of the 16th century. A contract of 30 October 1554 between John Grant of Freuchy and Christian Barclay, relict of James Grant of Freuchy, stated that "the dettis of the said umquhyll James exceid his guddis in greit sowmes".¹⁵ The earldom of Caithness was experiencing financial difficulties in the 1560s: "their hous is overburdened and overwhelmed with debts; wherby yow sie at this day the house and earldom of Catteynes weill neir ane utter ruyne".¹⁶ When Colin Campbell of Craginish borrowed 8000 merks from Duncan Campbell of Glenorchy on 19 June 1584 he referred to his poor financial state in the bond and that the money had been borrowed to relieve him from his creditors.¹⁷ John Campbell, 2nd of Lundie, experienced acute financial problems before his death in 1577, failing to pay feu-fermes and other duties, and as a result his lands, with the exception of Lundie, were granted in 1576 to Thomas Lyon, Master of Glamis.¹⁸ Rose of Kilravock also faced problems related to his debts at this time. It was stated that Katherine Falconer the wife of Rose of Kilravock was "verie assisting to her husband, particularly in paying the debt and

burden upon his fortune, which...extended, the tyme of their mariage, to the value of the halfe of their estate".¹⁹

The above evidence reveals that some Highland chiefs were accumulating quite substantial levels of debt in the period from c1550 to 1600 and that they sometimes experienced financial difficulties relating to these debts. It is noticeable that all the evidence relates to mainland chiefs; there is no indication that Island chiefs were borrowing at this time. This again reflects the east-west division within Highland society which has been discussed before. Chiefs on the mainland and eastern Highlands had closer links with Lowland society and so were more actively involved with this society, an involvement which included the borrowing of money.

Testaments indicate that by the early 17th century some members of the Highland elite had accumulated very high levels of debt. Lachlan MacIntosh of Dunnachton died on 15 October 1606 with debts of £14,447 13s 4d. This sum was greatly in excess of the total of his Inventory and the debts that were owed to him of £8,022.²⁰ Hector Munro of Foulis died on 15 November 1603 with debts of £6,789 13s 4d; a figure which also exceeded the assets listed in his testament.²¹ Sir Roderick MacKenzie of Coigach, the Tutor of Kintail, had debts of £38,000 listed in his latterwill of 1626²² and Sir Duncan Campbell of Glenorchy died on 23 June 1631 with debts of £33,061 (90% of assets).²³

Highland Earls were experiencing difficulties related to excessive debts. The Earl of Argyll accumulated very large debts which, according to Sir John Scot, were a major factor in his departure from Scotland: "for there was so great burden of debt upon the same, that it behoved his son, the late earl, to leave the country, not being able to give satisfaction to his creditors"²⁴ His Campbell kinsmen, many of whom had acted as cautioners, were left to come to an accommodation with his creditors.²⁵ "I beleve

thair be nocht ane mair miserable surname in Scotland and of thair rank nor they ar, I mein be thame that speiks the Erisch language for ye know yourself thair is nocht tua of his surname bot it is anewgh to the half of thair rent to pay thair annual. Sua his poore friendis estait is mair miserable to the regaird ane hundretfold nor his awin", lamented Colin Campbell of Lundy, the 7th earl's brother, on the state of Campbell finances at the time.²⁶ The Earldom of Atholl was also faced with financial problems. James Fraser described the situation in 1617: "the debts vast...this great estate is low, and declining every day".²⁷ When John Earl of Sutherland died on 11 September 1615 he "left his house overburdened with debt"²⁸ According to James Gordon, in 1638 the 2nd Marquess of Huntly was faced with accumulated family debts of £1,200,000.²⁹

Island chiefs were also beginning to experience problems in the early 17th century. MacLean of Duart was ordered by the Privy Council on 26 October 1605 to pay the King's rents by selling the produce of his lands, and "thai are declaired not to be arreistable by any of his creditors".³⁰ By 1622 MacLean's debts were still causing him trouble: "Hector McClane of Dowart...being put at as weill for his Majesteis dewteis as for debts to his creditors quhairby his house wes lyke to be ruined".³¹ In a letter of 31 August 1622 from Glasgow Sir Rorie MacLeod of Dunvegan complained to James VI about his annual trips to the Privy Council in Edinburgh and begged the King for a warrant to remain at home in Skye for seven years, "within the quilk tyme I sall be godis grace decoir my housses and plant yairdis and archardis and diffray my debtis and pay my creditouris".³² In the same letter Sir Rorie also pleaded that the repayment of the extensive debts of his son-in-law, the Captain of Clanranald, might be put off for five or seven years and "be godis grace he will satisfie all men befor that tyme expyre".³³

Other Highland chiefs had accumulated large debts by the early 17th century. Sir John Campbell of Cawdor commissioned his legal agent, the advocate Mr John Rollock, on 9 December 1617 to sell some of his valuables in order to reduce his debts.³⁴ It was stated that "the burding of the Laird of Calderis obligatione debt is ane hundreth thousand merkis or therby".³⁵ Cawdor had accumulated such a level of debt that he was forced to call a meeting of kinsmen and friends at Dunblane in order to produce a plan for their reduction. The minutes of the meeting state that "the fairsaidis debtis is metest onlie to be releivit be selling and wedsett, and in continuacione upon annual rent".³⁶ Details were then given of the particular lands that it was thought best to sell. It was stated, for example, that "Dernes and Arderseir be sauld for threttie sewin thousand merkis money".³⁷ Chamberlains were then appointed for the administration of the estates and auditors to make sure the finances were in order; Mr John Rollock, Cawdor's legal agent, being appointed one of the auditors and Rollock is likely to have been behind much of the organisation.³⁸

Kenneth, Lord MacKenzie of Kintail died in 1611 leaving his estates heavily burdened with debt³⁹ and Simon Fraser Lord Lovat died in 1633 leaving his son Lord Hugh "under insuperable debt".⁴⁰ Ross of Balnagown also faced severe problems caused by indebtedness in the early 17th century: "the hous of Balnagoun, the esteat qrof hes bene this long tyme bygone so pitifull and deplorable to all qa loves or affects the standing yrof".⁴¹ In 1634 Sir Colin Campbell of Glenorchy had given 8000 merks to Lord Lorne who was "in great debt and desyring the said Sir Colin his help to releive his lordschip of the same".⁴² It seems clear that the level of debts were higher by the early 17th century and were causing some of the chiefs severe difficulties.

A closer analysis of testaments supports the thesis that the level of indebtedness was increasing amongst the Highland elite in the period from the late 16th to the early 17th

century. Appendix IX shows the Highland chiefs whose testaments have been examined in the period from 1570 to 1610.⁴³ This selection is biased in favour of chiefs from the eastern Highlands and Campbell chiefs reflecting the fact that these individuals were more likely to register their testaments in Edinburgh. The average amount of debt of the Highland chiefs whose testaments were examined between the years 1570 and 1589 was £819, while the average amount between 1590 and 1609 was £2,765. Debt as a % of a chief's assets increased from 18.3% between 1570 and 1589 to 39.4% between 1590 and 1609, showing that the relative level of indebtedness was increasing during these years and that the increase in the absolute amount of debt was not caused by inflation. These figures correspond very closely to the ones produced by Keith Brown in his study of the debt problems of the Scottish nobility as a whole. Brown found that the level of debt amongst the Scottish nobility was increasing at such a rate in the later 16th and early 17th centuries that "it looks as though the Scottish nobility experienced something very like an economic crisis during the 1590s and early 1600s".⁴⁴ It would seem from the evidence of Highland chiefs' testaments that the borrowing habits of the Highland elite were not out of line with the rest of the Scottish nobility during these years.

The paucity of surviving evidence makes it difficult to construct a detailed description of how the debts of a particular chief and kindred rose and fell through time. The sources available for the study of the Campbells of Glenorchy, allow us to examine the debt problems of this kindred more closely than is possible for others. Colin Campbell of Glenorchy died on 11 April 1583 with debts of £941 13s 4d. These debts largely consisted of sums owing to the church, such as stipends and teinds, and servants' outstanding fees.⁴⁵ When his son, Sir Duncan Campbell of Glenorchy, died in 1631 his testament shows that he had debts of 41,250 merks. There were eleven creditors who were owed sums ranging from 13,000 merks to 1,000 merks. Nine out of the

eleven creditors were kinsfolk of Sir Duncan and one of the other two was his servitor. All the sums were borrowed on bond.⁴⁶ There was therefore a distinct increase in the amount of debt between 1583 and 1631 but this increasing burden of debt should be set against the extensive accumulations of land made by Sir Duncan and the high level of spending by him on buildings, agricultural improvement and tochers in the late 16th and early 17th centuries⁴⁷, while his creditors were mostly Campbells.

By 1643 the debt obligations of the family had altered:

Sir Robert being totallic exhaustit by the ladies of Glenorchy ther zeirly rents, and paying other creditouris he wes forced to borrow from Sir Chairles Erskine of Cambuskennall the soume of £20,000, and from Mr Rodger Mowatt advocatt in Edinburgh....20,000 merks, and from Captane John Short provest of Stirline....8,000 merks, and from Patrick Hebrune of Willyes ane appoticarie in Edinburgh....5,000 merks.⁴⁸

Such heavy borrowing outside the Campbell kindred left the family in a precarious financial position in the wake of the destructive raids on Campbell lands during the Montrose campaigns of 1644-5: "In the zeiris of God 1644 and 1645 the laird of Glenorchy his whole landis and esteatt betuixt the foord of Lyon and point of Lesmoir weir brunt and destroyit be James Grahame soumtymes earle of Montrois, and Alexander McDonald".⁴⁹ These raids were estimated, according to the author of the Black Book of Taymouth, to have caused destruction of 1,200,000 merks.⁵⁰ In 1648 the level of Campbell of Glenorchy debt exceeded 400,000 merks but was reduced by 200,000 merks between 1648 and 1654 by the careful management of Sir John Campbell of Glenorchy who had succeeded to the chiefship in 1657 and increased the level of rent from the Glenorchy estates from less than 2800 merks following the

devastations during the Civil War to 16,000 merks.⁵¹ A list of creditors which was drawn up in September 1652 puts the total debt at £101,608 6s 8d.⁵² But this period of debt reduction seems to have been short lived. A list drawn up in 1680 for John Campbell of Glenorchy, first Earl of Breadalbane, names 43 creditors who were at law against Breadalbane for recovery of debt. "I reckon none of the personal debts that have no diligence" wrote Breadalbane's legal agent who drew up the list and he continued: "to range all the debts from 1680 and their discharges either by renunciation or otherwise, would be of infinite service and the only thing we want to give us a light in our affairs"⁵³ The total amount of debt is not given but as a result of the many legal cases being taken against Breadalbane for recovery of debt, the management of debt must have been a central concern of the first Earl of Breadalbane throughout the later 17th century. The correspondence between Breadalbane and his Edinburgh legal agent and kinsman, Colin Campbell of Carwhin WS, is full of references to Breadalbane's debts and ideas on how to extricate him from the consequences of non payment.⁵⁴ On 30 January 1694 Lady Mary Campbell, Countess of Caithness, and Breadalbane's second wife, wrote to Lord Tarbat from London: "My Lord(Breadalbane) is so frank in this affair to give my son an honorable provition, that I hav good ground to think itt will be the first debt he will releev his estat of".⁵⁵

The Highlands were the theatre of much of the military campaigning of the Civil War period. The Marquess of Argyll's raids into Atholl in 1640, the Montrose Campaigns of 1644-5 and the Glencairn Rebellion of 1653-4 all caused major dislocation to the Highland economy and plunged many chiefs into severe financial difficulties. For example a letter from general Monck to Cromwell on 6 May 1654 gives an indication of the devastating effect troops could have on a region in the Highlands: "The enemy keepe onely one passe, and have sent their men back into Caithnes, having eaten up

Sutherland and Rosse".⁵⁶ The rent from Campbell of Cawdor's lands in Islay and Muckairn had been between £20,000 and £22,000 each year before the Civil war period. In 1651 the rent stood at £2,216 10s 2d.⁵⁷ The Campbells of Glenorchy also received drastically reduced rents: "all the rent of the estait did not reach 2800 merks be reason of the devastations".⁵⁸ The income levels of the Highland chiefs were greatly reduced and interest payments on outstanding debts could not be paid. The creditors of many chiefs were forced to take action in the courts in order to recover some of the money they had lent. This involved raising apprisings on the debtors lands so that income would be directed to the creditor until the debt was paid off. There were extensive apprisings raised on the lands of George Earl of Seaforth in the 1640s and 1650s: by Mr James Durhame of Pittkero for a debt of 9410 merks in 1649⁵⁹, by Alexander Lord Balcarras for £23,291 13s 4d in 1649⁶⁰, by William Downie writer in Edinburgh in 1649 for £12,178 5s⁶¹, by Hugh Hamilton merchant of Edinburgh in 1649 for £10,699 18s⁶², by Robert Murray merchant of Edinburgh in 1650 for 23,610 merks⁶³ and by Mr Robert Logane in 1650 for £59,405⁶⁴

In the years following 1660 the prime concern for many Highland chiefs was to reduce the level of indebtedness. Debt had become an endemic problem for the Highland elite. In 1664 the lands and barony of Foulis were appraised from John Munro of Foulis by Sir Robert Hepburn of Keith for recovery of debt.⁶⁵ The 9th Earl of Argyll in a letter of 22 September 1665 stated that he was faced with debts in the region of 1,000,000 merks.⁶⁶ In 1673 John Campbell of Duntroon was forced to relinquish control of his estates to his major creditor.⁶⁷ On 2 February 1678 twelve kinsmen of Sir James MacDonald of Sleat wrote the following to Lord Tarbat: "ther has been little or no progress at all made in the payment of ther wast debts".⁶⁸ In 1688 John first Marquess of Atholl wrote to John Earl of Breadalbane about the difficulties that Robert Campbell of Glenlyon was facing because of the level of his debts.⁶⁹ The MacLeans

owed substantial sums to the 9th Earl of Argyll; the background to a major struggle between the two kindreds in the later 17th century.⁷⁰ MacDougall of Dunolly also faced financial embarrassment at this time: he and his clan gentry thanked Viscount Tarbat in 1688 for help in matters before the Exchequer and that he was the "onlie instrument, under God, of keiping that familie from being extinct".⁷¹ According to Mr Lachlan Shaw's account of Rose of Kilravock, "he was so straitened that he purposed to sequestrate his estate, and to go into the military service: yet his friends diverted him from this course".⁷² It has already been shown that the management of debt was a central part of the work of John MacKenzie for his large number of Highland clients.⁷³ The impression gained from a variety of sources is of chronic indebtedness amongst the Highland and Island Elite in the later 17th century.

A study of testaments reinforces the picture of chronic indebtedness during this period. Out of a sample of twenty-one testaments from the years between 1650 and 1700, were registered by creditors of the deceased as part of the process of recovery of debt. This compares with one out of thirty-one for the period from 1570 to 1650.⁷⁴ There are fewer testaments available for study in the later 17th century when we might have expected more testaments to have survived. The reason for this is probably the rising indebtedness of the Highland chiefs. By the later 17th century higher debts made chiefs less likely to want to have their testaments registered in a public register where the precarious financial position of the family might become more visible to others.

Applications to the Privy Council for protection from arrest by creditors are further evidence of the level of indebtedness amongst Highland chiefs in the later 17th century. Such protections allowed debtors to enter Edinburgh to undertake business free from the fear of immediate arrest and imprisonment because of unpaid debts. On 12 June 1662 Ewen Cameron of Lochiel made an application to the Privy Council for

protection from the Laird of MacIntosh and other creditors, who had letters of horning and caption against him, so that he might come to Edinburgh.⁷⁵ On 18 November of the same year Colin Campbell of Lochnell and others, who were cautioners of the Earl of Argyll, applied for protection so that they might attend a committee appointed to consider the debts on the estate of the late Marquess of Argyll.⁷⁶ In 1665 protections were given to John Munro younger of Foulis, Kenneth MacKenzie of Coul, Roderick MacKenzie of Fairburn, Colin MacKenzie of Logie, Kenneth Earl of Seaforth, Sir Allan MacLean of Duart, Colin Campbell of Lochnell⁷⁷ and in 1666 to Ewen Cameron of Lochiel, the Earl of Seaforth, John Campbell of Ardchattan and Lord Lovat.⁷⁸ In 1668 Thomas MacKenzie of Pluscarden, Aeneas Lord MacDonnell, Sir John Urquhart of Cromartie and Kenneth MacKenzie of Coul made applications for protection⁷⁹ and in 1669 applications were made by Lord MacDonnell, Cameron of Lochiel, John MacLeod of Dunvegan, Sir John Urquhart of Cromartie and Sir James MacDonald of Sleat.⁸⁰ Sir James Campbell of Lawers, who acted as the government's agent for settling the Highlands in the 1660s and 1670s, had to continuously apply for protection from his creditors so that he could safely come to Edinburgh and give reports of his work to the Privy Council.⁸¹ For example on 21 December 1671 he was given protection by the Privy Council so that he could come to Edinburgh to give the government a report about the progress of his work in the Highlands.⁸² In the early 17th century James VI had tried to persuade the Island chiefs to come to Edinburgh and use the central courts to resolve their differences. This policy, to a certain extent, had been successful. It is somewhat ironic that in the later 17th century many Island and Highland chiefs were unable to safely come to Edinburgh because of the threat of arrest for failing to pay their debts. As a result they relied on the Edinburgh legal profession to act for them in the capital and made letters of application for protection when it was utterly necessary that they come to Edinburgh in person.

The above discussion has shown that Highland chiefs were borrowing money in the period from c1550 to 1600 and that some of them were experiencing financial difficulties caused by their indebtedness. It has been argued that this level of borrowing was increasing in the later 16th century and early 17th century in line with the borrowing habits of the Scottish nobility as a whole. The evidence of indebtedness was also surveyed for the period from 1600 to 1650 and this indicated that a wider range of Highland and also Island chiefs were accumulating large debts and some were facing problems relating to these debts. The Wars of the Covenant and the Glencairn Rebellion devastated the Highland economy and as a result the Highland elite who were already in debt were unable to continue making interest payments. This led to creditors raising appraisings on the estates of the chiefs, severe financial problems and extended legal battles in the courts. The majority of Highland chiefs in the period from 1650 to 1700 were not just faced with high levels of borrowing but with severe monetary difficulties caused by their debts and as a result the management of their chronic indebtedness became for many chiefs their major concern during the later 17th century. Not enough work has been undertaken on the financial state of the Lowland nobility in the later 17th century to say for certain if this situation of chronic indebtedness was worse in the Highlands. However it may be suggested that this was the case because the Highlands were the focus of much of the fighting of the Civil Wars.

According to Sir Robert Gordon, when John Earl of Sutherland died on 11 September 1615 "he left his house overburdened with debt". Sir Robert gave three reasons for this: the trouble the Earl had sustained for his religion, his enemies troubling him with costly law suits and money spent on works such as the salt pans at Brora.⁸³ MacInnes has argued that the cause of higher levels of indebtedness amongst the Highland chiefs was "increased involvement in national politics since the outset of the 17th century,

compounded by the accumulating fiscal demands of the state since the Restoration".⁸⁴ Shaw has provided an extensive list of the factors causing indebtedness, focusing on the Island chiefs, in the 17th century: closer contacts with the government leading to new financial commitments, expenses involved in travelling to the Privy Council, policing their lands for the crown, lawyers and agents' bills, increasingly sophisticated lifestyles and the costs of fighting campaigns during the civil war.⁸⁵

The closer relationship between Highland chiefs and the central government has been described in a number of previous chapters⁸⁶ and from the point of view of this study most notably in the context of the closer relationship that developed between the chiefs and the Edinburgh legal profession. This new relationship involved much higher levels of expenditure by the chiefs. There was the increasing cost of taking legal cases to the central courts in Edinburgh particularly higher legal fees which have been shown to have increased dramatically in the early 17th century.⁸⁷ There was also the expense of travel to and from Edinburgh and the costs involved in maintaining a presence there as legal cases were followed through the central courts. The closer relationship with central government was also reflected in more time being spent at Court in Scotland and at Court in England after 1603.⁸⁸ Travel expenses were higher for Highland chiefs because of matters of simple geography. The relationship between chiefs and lawyers that was the product of the rising power of the central government and was therefore a crucial factor in leading to the extension of indebtedness amongst the Highland elite in the period c1550 to 1700.

THE EFFECTS OF INDEBTEDNESS

The following extract from the contemporary Gaelic poet Roderick Morrison's "Oran do Mhac leoid Dhun Bheagain" (A Song to MacLeod of Dunvegan) criticises the MacLeod chief Ruairidh Og, who was chief between 1693 and 1699, for borrowing money to finance his purchase of foreign luxuries on the security of the MacLeod lands:

Thig e mach a'bhuth
leis an fhasan as ur bho'n Fhraing,
's an t-aodach gasda bha'n de
m'a phearsa le speis nach gann
theid a shadadh an cuil-
"Is dona'm fasan, chan fhiu e plang.
Air mal baile no dha'
glac am peana's cuir lamh ri bann".

He comes out of the shop with the latest fashion from France, and the fine clothes worn on his person yesterday with no little satisfaction are tossed into a corner- "The style is unmodish, not worth a plack. On the security of a townland or two, take the pen and sign a bond".⁸⁹

This contemporary poem is a bitter attack on the absentee Highland chief of the later 17th century. The poet's view of Ruairidh Og is sustained by evidence from the MacLeod of Dunvegan family muniments that show his extensive borrowing. The Rev. Canon R.C. MacLeod of MacLeod has estimated that there was £41,000 of rent on

the MacLeod estate in 1693 and that Ruairidh Og's free income may have been £9,000 a year but in six years as chief he piled up new debt of £45,000.⁹⁰ This section aims to analyse the effects of the increasing burden of indebtedness on the Highland chiefs from c1550 to 1700.

The rising importance of debt as a major concern for Highland chiefs is neatly reflected in changes in the record keeping of the Campbells of Glenorchy. The Glenorchy chiefs issued many bonds of manrent in the later 16th century. These bonds were written reflections of Campbell of Glenorchy dominance over neighbouring kindreds and they were carefully registered in special Books by the Glenorchy servitors.⁹¹ By the 17th century bonds of manrent were more or less a thing of the past. Wormald informs us that very few bonds of manrent were made in Scotland after 1600.⁹² A few bonds of friendship were still signed in the Highlands in the later 17th century but in general the 17th century witnessed a major reduction in bonds of manrent in the Highlands and Lowlands.⁹³ As a result by the later 17th century John Campbell of Glenorchy, the first Earl of Breadalbane, did not need a "Book of Bonds of Manrent". Instead a "Register of Wadsets" was being kept for him.⁹⁴ Wadsets were a form of mortgage which involved a conveyance of land by the borrower(or reverser) to the lender(or wadsetter) in return for a sum of money. A clause of reversion made it possible for the land to be returned to the borrower if the initial sum was repaid to the lender.⁹⁵ Wadsets were an increasingly common way of raising cash in the 17th century and Campbell of Glenorchy lands were being wadsetted from the late 1650s.⁹⁶ This transition from a *Book of Bonds of Manrent* to a *Register of Wadsets* is symptomatic of the rising importance of debt for the 17th century Highland elite and the influence of this increasing indebtedness.

Indebtedness had a number of important effects on the Highland elite. Indebtedness could result in the temporary eclipse of the chief at the top of the landholding structure. The financial problems of some Highland chiefs were so great by the later 17th century that they were forced to relinquish control over their estates to commissions that took over the administration of the estates until debts had been substantially reduced or paid off. For example on 2 February 1678 twelve MacDonald clan gentry wrote the following to Lord Tarbat from Portree in Skye:

When wee, though bot a few of the branches of the familie of McDonald (yet the nearest), does consider and weigh with ourselves, that through the discrepancies arysing dayly betwixt Sir James and Sir Donald his son, ther has been little or no progress at all made in the payment of ther wast debts, wee find it no less then our dewtie and concerne, both for ther owne and our preservation, to put on a resolution, as now we are resolved to doe, to separat, with your Lordships advice and concurrence, the estate from them both.⁹⁷

In 1672 MacKinnon of Strathordle transferred his estate to a commission including John MacLeod of Dunvegan in order that his debts could be paid off.⁹⁸ On 30 May 1674 articles were agreed at Tullibardine between the Earl of Atholl and his friends "Anent the better management of His Lordships eatate and uplifting of his Lordships rents, and anent the more effectual and better payment of his Lordships Debts and annual rents yearly". It stated that "it is thought fitt that ther be a perfytt and exact list of his Lordships wholl principall debts drawn up". The rents and duties of Atholl, Balquidder and Glenalmond were, for example, to be set aside for the payment of the interest on the Earl's debts.⁹⁹ On 5 March 1674 Robert Campbell of Glenlyon handed over the administration of his estates to a commission, "considering that there are severall debts soumes of money and uther burdings and incumbrances affecting and

burdening my lands estate and uthers pertaineing and belonging to me. And that it is simple and altogether impossible ffor me to take course with the saids debts....without the Counsell advyse and concurrence of some of my good ffreinds".¹⁰⁰ These included John Campbell younger of Glenorchy, Sir Alexander Menzies of that Ilk, Duncan Stewart of Appin, Patrick Stewart of Ballachane, Col. James Menzies of Culdaris, Colin Campbell of Monzie, Alexander Campbell of Lochdochart and John Campbell of Inerchaldie. The commission gave them power to set and grant tacks and to receive all the duties from his lands, to appoint a factor and chamberlain, to grant contracts of wadset and to continue until all the debts are paid off. Therefore a number of the Highland elite were being forced to relinquish control over their estates because of their excessive debts in the later 17th century. It is noticeable, however, that in most cases the commissions were composed of the kinsmen of the chiefs or representatives of neighbouring kindreds. Effective control of the lands was being taken out of the chiefs' hands but was being kept within the kindred or spread between neighbouring kindreds. The freedom of action of the chiefs was now decreased; they could no longer spend the surplus of their estates in the way they wanted. The exalted position of the Highland chief was diminished by this process although the land itself remained in the control of the kindred, through the administration of the commission, and the chief still remained at the top of the social hierarchy in terms of the kin-based society.

The following extract from John Nicoll's diary shows that the effects of indebtedness could be very embarrassing for an Highland chief:

In the moneth of November 1654, the Marques of Ergyll repaired to Dalkeith...At quhich tyme he resaved...much effrontes and disgraces of his creditouris, quha being frustrat and defraudit be the Marques of thair just and lauchfull dettis, spaired not, at all tymes as he walked, ather in streit or in

the feildis abroad.(to call him)"A fals traitour". Besyde this, his hors and hors graith, and all uther houshold stuff, wer poyndit in Dalkeith and at Newbottil, and brocht to Edinburgh, and thair comprysit at the Mercat Croce for dett.¹⁰¹

In November 1655 the Marquess of Argyll was arrested in Westminster in London at the instance of a creditor of his, Elizabeth Maxwell, the widow of the Earl of Dirleton, for a debt of £1000 Sterling.¹⁰² These two examples reveal how indebtedness could bring public humiliation upon an Highland chief.

The chiefs made applications to the Privy Council for protection from arrest by creditors so that they could enter Edinburgh. It has been shown that this became common after 1660 and was no doubt viewed by the chiefs as an infringement of their freedom of movement and disrespectful to their honour.¹⁰³ Indebtedness was acting to constrain the power of Highland chiefship and often to disperse power more broadly within the kindred.

Despite the extent of Highland elite indebtedness by the later 17th century, very few chiefs were actually ruined by their debts or lost all of their lands. The survival of the Highland chief was due to the large amounts of land which could be used as a reservoir for further borrowing, and to the conservative nature of Highland society. Kinship was still a potent force and kinsmen acted for the preservation of the existing social structure. It has been shown above that kinsmen were often involved in negotiations for reducing the family debts and might act as administrators of the clan lands when commissions were established. There were exceptions, however. John Campbell of Duntroon was one chief who lost control of his estate to a commission "taking to his consideration that his house and estait of Downtroone is under great debt and almost totally ruined thairby. And he being most desyrous above all things

earthly to keip and preserve the said family from perishing....And knowing no better and moir probable way ffor preserveing the same then to comitt the manageing of the said estaitto the trust and care of the firsaidis foure persones his freinds".¹⁰⁴ The efforts that were made to reduce the level of debt failed, however, and in 1673 John was forced to come to an accommodation with his major creditor Neil Campbell, sheriff-depute of Argyll, to whom he owed £16,958. The rent of the Duntroon estate was not large enough to cover the interest on the debt and so rather than enter a lengthy and expensive legal battle John assigned the rents and mansion house of Duntroon to Neil Campbell. In return, Neil promised to pay Campbell of Duntroon 400 merks each year for the maintenance of his family during the lifetime of John's two liferenters.¹⁰⁵ This example reveals that in this kindred the bonds of kinship were beginning to fragment by the later 17th century. It seems inconceivable that during an earlier period Neil would have pursued his financial claim so far that it involved removing his kinsman from his hereditary seat. However, kinship still influenced the relationship with Neil providing for the family for a limited period. This shows that the extension of indebtedness was involved in the breakup of the kin-based social system but at this time the process was only partially complete and kinship maintained much of its power. John Campbell of Duntroon had experienced a rapid fall in status. On 28 January 1686, while being held prisoner for his alleged involvement in the 1685 Argyll rebellion, John made a supplication to the Privy Council "not having an furrow of land in the world nor nothing else to maintaine himself, his poor wyfe and children, all that he had being fyfteen or eighteen years agoe comprysed and taken from him by cautionary for the family of Argyle and thereafter dispoed all to Neill Campbell now of Duntroone".¹⁰⁶

The extension of indebtedness offered the clan gentry and the better off tenants the chance to obtain more secure tenure through the acquisition of a wadset. In the course

of the 17th century a new group are referred to in documents relating to Highland society: the wadsetters. They were found in the Highlands of Aberdeenshire by 1633¹⁰⁷, in Atholl by 1638¹⁰⁸, on the Earl of Seaforth's lands by the middle of the 17th century, "all thes who hes wodsetts of my lords pylands",¹⁰⁹ and on the lands of the Earl of Sutherland by the later 17th century: the Privy Council Register gives a "List of heritors, wadsetters and lyfrenters in the shire of Sutherland" on 21 September 1688.¹¹⁰ MacInnes has found that wadsetting became more common in Argyllshire in the wake of the Civil War period and has argued that this brought about "a major expansion of proprietorship within Gaeldom comparable to the impact of the secularisation of the kirklands in the Lowlands during the 16th century".¹¹¹ The borrowing habits of the Highland elite were bringing about a gradual transformation in the land holding structure in the Highlands. The chief's position in the landholding hierarchy was therefore often diminished and at the same time the position of the major clan gentry was being enhanced. This did not directly apply to the chief's position as leader in terms of the kin based society but it seems likely that the humiliation and dishonour which could be caused by the financial problems related to excessive levels of indebtedness was acting to lower the esteem in which chiefs were held by their kinsman and this is reflected in the Gaelic poetry of the later 17th century. For example this can be seen in Roderick Morrison's *A Song to MacLeod of Dunvegan* (*Oran do Mhac Leoid Dhun Bheagain*) which is a mocking attack on an absentee chief¹¹² and the criticism incipient in Iain Lom's *Oran Do Mhorair Chlann Domhnaill* (*A Song to Lord MacDonell*): "You seem to me to be a long time in England, being ruined by gaming".¹¹³

Other effects of indebtedness were economic. Indebtedness was forcing many chiefs to decrease their expenditure. When a commission was established to administer a chief's lands a portion of the revenues was assigned to him for his living expenses. If the debts

were to be reduced this would involve a sharp reduction in expenditure. The other way out of trouble was to try to increase levels of income. The trade in Highland cattle was certainly growing during these years¹¹⁴ and it seems likely that financial problems caused by debt stimulated growth in this area of the Highland economy as chiefs sought to increase the level of cash their estates could produce. Incomes could also be increased by raising rents. In a letter of 3 May 1688 the Earl of Atholl told the first Earl of Breadalbane that Robert Campbell of Glenlyon "opresses the poor tenants that ther is and will be much land cast waste in that Glen".¹¹⁵ It seems that the demands Glenlyon was making on his tenants were such that some were leaving his lands. There are also references to rent increases in the Gaelic poetry of the period. For example Iain Lom in his "Do Mhac Fhionghuin an T-Sratha" (A Song to MacKinnon of Strath, c1660) praises the MacKinnon chief for not extending the exactions on his tenants: "You did not adopt as your custom the habit of others here, namely, to be severe with the tenantry over rent".¹¹⁶ This suggests that a number of Highland and Island chiefs in and about Skye had been raising rents or demanding the payment of arrears. And in his "Oran do Mhac Leoid Dhun Bheagain" (A Song to MacLeod of Dunvegan) the poet Roderick Morrison makes the direct connection between conspicuous expenditure and rent increases:

crios dealbhach o'n bhuth,

bogh' chinn airgid is biugail oir-

's fheudar faighinn sin da:

's thig air m'fhearann-sa mal nas mo.

A finely fashioned belt from the shop, a silver-tipped bow and a golden bugle- that must be got for him: and a higher rent will be charged for my land.¹¹⁷

Attempts to increase the productivity of estates also put pressure on those who had traditionally held land without having to pay rent; these included hereditary professional families and kinsmen who held land in return for military service. For example in a memorandum concerning the Earl of Seaforth's finances, which gave advice on how his financial position might be improved, it was stated that "all men...hes tracts of land for no dewtie at all may queit thess landis to my lord without any acknowledgment".¹¹⁸ High levels of indebtedness were therefore one of the factors hastening the decline of the traditional patronage of Highland chiefship.

Debt caused political instability in the Highlands and could become a weapon in the struggle for power and land. On 10 August 1635 Murdoch MacLean of Lochbuie complained in a letter to Robert Campbell of Glenfalloch that his enemy Hector MacAllan of Kinlochallan had taken assignation of a bond from an Edinburgh merchant and that he feared that Kinlochallan intended to apprise his lands and have him put to the horn.¹¹⁹ The struggle between the Earl of Argyll and the MacLeans in the later 17th century which was ostensibly pursued by Argyll for the recovery of extensive debts owed to him by the MacLeans reveals how chronic indebtedness acted as a cause of disruption and instability in the Highlands and Islands throughout much of the Restoration period.¹²⁰ The Argyll Muniments at Inverary contain a vast quantity of documents relating to this struggle.¹²¹ The great number of documents indicate the importance of the struggle from the point of view of the Earl of Argyll and they also show that alongside the violent skirmishes which took place on the ground in the western Highlands, there was another struggle going on in the Scottish courts whose foot soldiers were members of the Scottish legal profession.

An interesting example of the effect that indebtedness could have on the political position of a member of the Highland elite is Patrick Campbell of Edinample, who

was the son of Sir Duncan Campbell of Glenorchy by his second wife Elizabeth, daughter of Henry Lord Sinclair. By the late 1630s Patrick was in trouble with his creditors. In a letter of 4 January 1639 Archibald Campbell, brother of Campbell of Lawers, stated that Patrick's creditors were about to charge him for their money.¹²² In a letter of 1640 Archibald Campbell continued: "your brother Patrick of Edinample is lyke to bring himself both to shame and trouble for he nather payes principall nor annuel to any I know".¹²³ The problems related to his debts influenced his political stance at this time. He took the side of Montrose in 1644 against the position taken by the vast majority of his kindred and other Argyllshire clans.¹²⁴

Chronic indebtedness had psychological effects on the chiefs by the later 17th century. Many became entrapped in long weary disputes with creditors. They often expressed feelings of despondency in their letters. Indeed it might be suggested that an atmosphere of gloom hung over the Highland chiefs during this period. In their correspondence there is much talk of troubles and ruin. In 1666 Sir James MacDonald wrote to Sir George MacKenzie of Tarbat: "I thank God I can hold my head above the water".¹²⁵ In 1684 Sir Alexander MacKenzie of Coul commented to his brother Mr John MacKenzie advocate that "all the tyes of nature reason and religion oblige me to look to the interest and seaftey of my own poore family".¹²⁶ In another letter of 1696 he commented that "if I warr sure of leaving my pour wyfe and children in any reasonable condition of lyfe".¹²⁷ On 22 September 1697 Kenneth MacKenzie, a son of Sir William MacKenzie first baronet of Coul, wrote to his brother, the above mentioned John MacKenzie advocate, that "as dismall unfortunat and lamentable my own lot is in the world I regreat litle less my poor brother Collins condition who now since I am not in condition to help in a maner begges from door to door".¹²⁸ Isobell the wife of the third Earl of Seaforth reflected in a letter of 5 May 1701: "I think it will be best to me to reteir to the abay".¹²⁹ She is referring to Hollyrood Abbey which still

functioned as a sanctuary for debtors. Her son Kenneth Earl of Seaforth wrote to John MacKenzie when faced with problems relating to debts and political difficulties because of his Jacobitism: "all my mole hills is made mountains".¹³⁰

Other kindreds revealed the same gloomy attitudes. In 1678 the MacDonald clan gentry wrote the following in a letter to Lord Tarbat: "what would become of the air and all of us, that through the decay of the stock could not but wither us branches".¹³¹ In 1688 the MacDougall chief and clan gentry thanked Lord Tarbat for being "the onlie instrument, under God, of keiping that familie from being extinct"¹³² and in 1698 Sir Donald MacDonald of Sleat wrote to George MacKenzie Viscount Tarbat: "I have the honour and happiness of soe good a director to extricatt me out of the laberinth of thir difficulties".¹³³ The above evidence indicates that Highland chiefs often expressed feelings of gloom and insecurity in their letters. The accumulation of large debts and the financial problems that ensued appears to have been the major cause of such proclamations of despair.

Some chiefs reflected that things had been better in the past. In 1661 Sir John Campbell of Glenorchy wrote to his father-in-law, William Earl of Airth with fond memories about advice from his grandfather:

This was my grandfather, Sir Duncan's admonitione to me, and I could never heir nor know of any gentlemen in the Highlands quho's prudence in the metter of governement of his estait was more extolled then his.¹³⁴

The First Earl of Breadalbane also reflected on the golden age of his grandfather Sir Duncan Campbell of Glenorchy. In an undated letter to his lawyer and kinsman Colin Campbell of Carwhin he referred to the unstable Robert Campbell of Glenlyon: "as Sir

Duncan used his great grandfather, I wish we had chambered him some years ago".¹³⁵ Lord Glenorchy, Breadalbane's son, also had admiration for the days of Sir Duncan: "I long to secure our frontiers as Sir Duncan left them".¹³⁶ It was certainly perceived by members of the Glenorchy family in the later 17th century that the family had reached a peak in terms of power and influence under Sir Duncan Campbell in the early 17th century and had substantially declined thereafter. This perception of decline produced a yearning for security which expressed itself in a reflection on a golden age of the family in the past.

Another response to the insecurity of the later 17th century can also be discerned. In May 1666 Lord Lovat made a journey to Glenelg and "resolves to go in highland cloaths as agreeing best with the place and genius of the people" and that he "encouraged them as it became a chiftin every way".¹³⁷ This description of Lord Lovat indicates that it was unusual for a chief to wear Highland clothing at this time. He was perhaps attempting to make himself more like the people of his kindred because social, cultural and political change had made him quite unlike them. This attempt by the chiefs to recreate themselves in a more "Highland" light has been noticed by other historians. Hopkins describes Simon Fraser Lord Lovat's distinctive characteristic as an intense self-consciousness and he states that Lovat "living when the clan structure was still strong and generally accepted as a natural part of Scottish society, he constantly worked to bolster it among the Frasers with all the exaggerated attention to dress and other externals and the ultimate insecurity of an antiquarian revivalist trying to recreate a dead system".¹³⁸ Grimble has stated that John 2nd Lord Reay, chief of the MacKays of Strathnaver, "appears to have recreated the antique pattern of life of the former Lords of the Isles and the lesser Celtic patriarchs".¹³⁹ Putting on Highland dress, looking back to a golden age and proclamations of despondency and decline all indicate a reflective and self-conscious group of individuals who were reacting to

insecurity caused by change. Much of this was related to the financial problems of the Highland chiefs in the later 17th century.

The above discussion has shown that the extension of indebtedness had a number of important effects on the Highland chiefs of the later 17th century. Indebtedness was changing the nature of Highland society: the power of the chiefs was being diminished as many handed over control of their estates to commissions which aimed to reduce the debts. Legal cases involving debt and applications to the Privy Council for protection inhibited the freedom of movement of the chiefs. Their position at the apex of Highland society was being altered although they remained at the top in terms of the kin-based society. Highland chiefship was also altered as hereditary professional families came under pressure as estates were run more economically to raise funds to reduce debt. Indebtedness affected the political life of the chiefs; being used as a weapon in kindred rivalry and giving rise to further instability.

Finally the psychological effects of financial difficulties related to indebtedness have been discussed and it has been argued that such levels of debt led to feelings of gloom and despair amongst the Highland chiefs and that this was part of a more general insecurity which involved reflecting back on a golden age and attempting to recreate the image of a Highland chief which now belonged to the past.

¹ Supra, 180-1.

² Supra, 205-12.

³ Frances J. Shaw, *The Northern and Western Islands of Scotland: Their Economy and Society in the 17th century*, (Edinburgh, 19080), 43-5, David Stevenson, *Alasdair MacColla and the Highland Problem in the Seventeenth Century*, (Edinburgh, 1980), 281. Allan I. MacInnes, "Repression and Conciliation: The Highland Dimension 1660-

1688", *SHR*, lxxv, 1986, 176, 186-7, and Allan I. MacInnes, "The Impact of the Civil Wars and Interregnum: Political Disruption and Social Change within Scottish Gaeldom", *Economy and Society in Scotland and Ireland 1500-1939*, (ed. Rosalind Mitchison and Peter Roebuck), Edinburgh 1988, passim.

⁴ Keith M. Brown, "Noble Indebtedness in Scotland between the Reformation and the Revolution, *Bulletin of the Institute of Historical Research*, vol.62 no.149, (October 1989), 260-75, and Keith M. Brown, "Aristocratic Finances and the Origins of the Scottish Revolution", *EHR*, civ, 1989, 46-87.

⁵ Lawrence Stone, *The Crisis of the Aristocracy, 1558-1641*, (Oxford, 1965), 504-46, and Charles Jago, "The Influence of Debt on the Relations between Crown and Aristocracy in Seventeenth Century Castile", *EcHR*, 2nd series, xxvi, 1973, 218-36.

⁶ Brown, *Noble Indebtedness*, 263.

⁷ Brown, *Aristocratic Finances*, 52.

⁸ SRO Commissary Court Records, CC 8/8/8 f247-252. The assets in the testament are equal to the inventory added to the debts that were owed to the dead.

⁹ *Ibid.*, CC8/8/13, f133-38.

¹⁰ *Ibid.*, CC8/8/17, f77-82.

¹¹ *Ibid.*, CC8/8/22, f359-63.

¹² Lawrence Stone, *The Crisis of the Aristocracy*, 540

¹³ *Ibid.*, CC8/8/4, f160-1, CC8/8/32(folios not numbered), CC8/8/22, f277-8.

¹⁴ *Ibid.*, CC8/8/24, f194-5.

¹⁵ Fraser, *Grant*, iii, 113-14.

¹⁶ Gordon, *Earldom of Sutherland*, 149.

¹⁷ *Clan Campbell*, vi, 46.

¹⁸ Edward J. Cowan, "The Angus Campbells and the Origin of the Campbell-Ogilvie Feud", *Scottish Studies*, xxv, (1981), 32.

¹⁹ *A Genealogical Deduction of the Family of Rose of Kilravock*, Spalding Club, (Edinburgh, 1848), 74.

²⁰ SRO Commissary Court Records, CC8/8/43, f179-181.

²¹ *Ibid.*, CC8/8/41, f1-5.

²² SRO Cromarty Muniments, GD 305/1/167/8.

²³ SRO Bread. Muns., GD 112/1/488.

²⁴ Sir John Scot of Scotstarvet, *The Staggering State of Scottish Statesmen*, ed. Charles Rogers, Grampian Club, Edinburgh 1872, 40.

²⁵ *Highland Papers*, iii, 227-8, 229-31, 252, 305-6, and E. Cowan, "Fishers in Drumlie Waters, Clanship and Campbell Expansion at the Time of Gillesbuig Gruamach", *TGSI*, liv, 1984-6, 278-9.

²⁶ SRO Bread. Muns., GD 112/39/40/29.

- ²⁷ *Chron. Frasers*, 243-44.
- ²⁸ Gordon, *Earldom of Sutherland*, 313.
- ²⁹ James Gordon, *History of Scots Affairs from 1637-1641*, Spalding Club, (Aberdeen, 1841), i, 49.
- ³⁰ RPC, first, vii, 141.
- ³¹ *Coll. de Rebus Alban.*, 151.
- ³² NLS MS 2133, 114.
- ³³ *Ibid.*, 114-15.
- ³⁴ *Cawdor Bk.*, 241-2.
- ³⁵ *Ibid.*, 254.
- ³⁶ *Ibid.*, 254.
- ³⁷ *Ibid.*, 255.
- ³⁸ *Ibid.*, 255.
- ³⁹ Alexander MacKenzie, *History of the MacKenzies*, (Inverness, 1894), 235.
- ⁴⁰ *Chron. Frasers*, 267.
- ⁴¹ *Old Ross-shire*, Supplementary Volume, 7-8.
- ⁴² *Taymouth Bk.*, 77.
- ⁴³ *Infra*, Appendix IX, 300-301.
- ⁴⁴ Brown, *Aristocratic Finances*, 52.
- ⁴⁵ SRO Commissary Court Records, CC 8/8/13, f136-7.
- ⁴⁶ SRO Bread. Muns., GD 112/1/488.
- ⁴⁷ *Supra*, 137-8.
- ⁴⁸ *Taymouth Bk.*, 96.
- ⁴⁹ *Ibid.*, 100-101.
- ⁵⁰ *Ibid.*, 102.
- ⁵¹ SRO Bread. Muns., GD 112/39/113/23.
- ⁵² *Ibid.*, GD 112/38/3/3.
- ⁵³ *Ibid.*, GD 112/38/5/15.
- ⁵⁴ *Supra*, 156-7.
- ⁵⁵ Fraser, *Cromartie*, i, 103-5.
- ⁵⁶ C.H.Firth(ed.), *Scotland and the Protectorate*, SHS, Edinburgh 1899, 101.
- ⁵⁷ *Cawdor Bk.*, 303.
- ⁵⁸ SRO Bread. Muns., GD 112/39/113/23.
- ⁵⁹ RMS, 1634-1651, no. 2138.
- ⁶⁰ *Ibid.*, no. 2139.

- 61 Ibid., no. 2140.
- 62 Ibid., no. 2150.
- 63 Ibid., no. 2180.
- 64 Ibid., 1652-1659, no.646
- 65 *Munro Writs*, 240.
- 66 *Letters from Archibald Earl of Argyll to John, Duke of Lauderdale*, Bannatyne Club, (Edinburgh, 1829), 24-27.
- 67 *Infra*, 235-6.
- 68 Fraser, *Cromartie*, i, 27-9.
- 69 SRO Bread. Muns., GD 112/39/143/2.
- 70 MacInnes, *Clanship*, 38-9, 106, 136.
- 71 Fraser, *Cromartie*, i, 57-8.
- 72 *A Genealogical Deduction of the Family of Rose of Kilravock*, The Spalding Club, (Edinburgh, 1848), 379.
- 73 *Supra*, 180-1.
- 74 *Infra*, Appendix X, 302.
- 75 RPC, third, i, 224.
- 76 Ibid., i, 294.
- 77 Ibid., ii, 1, 15, 33, 52, 58, 64.
- 78 Ibid., ii, 130, 166, 182, 187.
- 79 Ibid., ii, 467-8, 554, 575.
- 80 Ibid., iii, 34, 86, 87, 103, 104.
- 81 Ibid., iii, 73-6, 115, 139, 263, 611, iv, 112, 146, 171, 309,
- 82 Ibid., iii, 420-1.
- 83 Gordon, *Earldom of Sutherland*, 313.
- 84 Alan I. MacInnes, Jacobitism, in Jenny Wormald(ed.), *Scotland Revisited*, (London, 1991), 131.
- 85 Frances J. Shaw, *The Northern and Western Islands of Scotland*, (Edinburgh, 1980), 45.
- 86 *Supra*, 65-107, 136-163.
- 87 *Supra*, 195-204.
- 88 *Supra*, 45-9.
- 89 William Matheson(ed.), *The Blind Harper (An Clarsair Dall)*, The Scottish Gaelic Texts Society, (Edinburgh, 1970), 69.
- 90 *Book of Dunvegan*, i, 267.

- ⁹¹ J. Wormald, *Lords and Men in Scotland: Bonds of Manrent, 1442-1603*, (Edinburgh, 1985), 101.
- ⁹² *Ibid.*, 161.
- ⁹³ MacInnes, *Highland Dimension*, 170.
- ⁹⁴ SRO Bread. Muns., GD 112/5/6.
- ⁹⁵ *An Introduction to Scottish Legal History*, (1958), 184-5.
- ⁹⁶ SRO Bread. Muns., GD 112/5/6.
- ⁹⁷ Fraser, *Cromartie*, i, 27-8.
- ⁹⁸ *Book of Dunvegan*, i, 123.
- ⁹⁹ John Duke of Atholl(ed.), *Chronicles of the Atholl and Tullibardine families*, (Edinburgh, 1908), i, 164-6.
- ¹⁰⁰ SRO Bread. Muns., GD 112/2/8/16.
- ¹⁰¹ John Nicoll, *A Diary of Public Transactions*, Bannatyne Club, (Edinburgh, 1836), 140.
- ¹⁰² John Willcock, *The Great Marquess, Life and Times of Archibald, 8th Earl, and first(and only) Marquess of Argyll(1607-1661)*, (Edinburgh, 1903), 296.
- ¹⁰³ *Supra*, 227-8.
- ¹⁰⁴ SRO Campbell of Duntroon Muniments, GD 116/1/28.
- ¹⁰⁵ *Ibid.*, GD 116/1/76.
- ¹⁰⁶ RPC, third, xi, 533-34.
- ¹⁰⁷ *The Miscellany of the Spalding Club*, (Aberdeen, 1846), iii, 69-139.
- ¹⁰⁸ John 7th Duke of Atholl, *Chronicles of the Atholl and Tullibardine Families*, (Edinburgh , 1908), i, appendix x-xiii.
- ¹⁰⁹ SRO Mar and Kellie Muniments, GD 124/15/147.
- ¹¹⁰ RPC, third, xiii, 310-11.
- ¹¹¹ MacInnes, *Impact of the Civil Wars*, 64.
- ¹¹² William Matheson(ed.), *The Blind Harper(An Clarsair Dall)*, The Scottish Gaelic Texts Society, (Edinburgh, 1970), 58-73.
- ¹¹³ MacKenzie, *Orain Iain Luim*, 125.
- ¹¹⁴ MacInnes, *The Highland Dimension*, 173.
- ¹¹⁵ SRO Bread. Muns., GD 112/39/143/2.
- ¹¹⁶ MacKenzie, *Orain Iain Luim*, 73.
- ¹¹⁷ William Matheson(ed.), *The Blind Harper(An Clarsair Dall)*, The Scottish Gaelic Texts Society, (Edinburgh, 1970), 70-1.
- ¹¹⁸ SRO Mar and Kellie Muniments, GD 124/15/147.
- ¹¹⁹ SRO Bread. Muns., GD 112/39/56/16.

- 120 Stevenson, *Alasdair MacColla*, 279-80, MacInnes, *Clanship*, 135
- 121 Argyll Muniments, National Register of Archives 1209.
- 122 SRO Bread. Muns., GD 112/39/68/1.
- 123 Ibid., GD 112/39/83/8.
- 124 David Stevenson, *Alasdair MacColla and the Highland Problem in the Seventeenth Century*, (Edinburgh, 1980), 150.
- 125 Fraser, *Cromartie*, i, 16.
- 126 NLS Delvine Papers, MS 1329, f17-18.
- 127 Ibid., MS 1331, f10.
- 128 Ibid., MS 1332, f2.
- 129 Ibid., MS1356, f14.
- 130 Ibid., MS 1356, f120.
- 131 Fraser, *Cromartie*, i, 27-9.
- 132 Ibid., i, 57-8.
- 133 Fraser, *Cromartie*, i, 129.
- 134 Fraser, *Menteith*, ii, 162-64.
- 135 SRO Bread. Muns., GD 112/39/149/12.
- 136 Ibid., GD 112/39/182/18.
- 137 *Chron. Frasers*, 465.
- 138 Hopkins, *Glencoe*, 443.
- 139 Ian Grimble, *Chief of Mackay*, (London, 1965), 176.

CONCLUSIONS

Chapter 1 provided a profile of the Highland chiefs in the period from c1550 to 1700 in terms of their social and cultural life, and their relationship with Crown and Parliament. Highland society was shown to be based around clanship: a kin based system with feudal elements. The social structure of Highland society became more complex in the course of the 17th century as younger sons of chiefs and members of the clan gentry joined the Army and legal profession or became merchants, and as the landowning structure was transformed by wadsetting. Highland chiefship maintained its militaristic, juridical and social functions during the 17th century.

The cultural life of the Highland elite was considered by examining fosterage, education, language, leisure and entertainment and anglicisation. Fosterage was shown to be of vital importance in preserving a Gaelic cultural environment in which the sons of the chiefs were brought up but in the course of the period the institution had declined amongst the major kindreds. By the later 16th century the son of an Highland chief was literate and likely to have received formal education at school and possibly at University. By the later 17th century the clan elite were generally literate. The decline of fosterage and the extension of "Lowland" education influenced the language spoken by the chiefs. By the later 16th century many if not most of the chiefs were bilingual, fluent in both Gaelic and Scots, and by the 17th century some of the most powerful chiefs were being brought up outside a Gaelic context and some were unable to speak the language.

An examination of the leisure pursuits of Highland chiefs showed that the core pursuits of a rural society such as hunting and fishing remained important throughout the period and Gaelic poets continued to entertain the chiefs. However the period

witnessed the introduction of a number of new leisure activities such as golf, bowls and tennis and new fashions in music and art under the increasing influence of Lowland and English society. Anglicisation had limited influence on the Highland chiefs before 1650 and thereafter only in terms of marriage, fashions and the employment of English servants.

For the Highland elite the period c1550 to 1700 therefore witnessed the decline of fosterage, the extension of "Lowland" education and the Scots language, the beginnings of the decline of Gaelic, changed tastes in leisure and entertainment and to a limited degree anglicisation.

The changing relationship between chiefs and the highest institutions of King, Court and Parliament was analysed to place the later discussion of chiefs and lawyers in context. Chiefs travelled to Court in Edinburgh in the later 16th century and to Court in England after 1603 and through the distribution of Honours, particularly by James VI, became more dependent on the patronage of the Crown. Increasing attendance at Parliaments indicated a greater involvement with the state and national politics. Our period was therefore one of significant change for the Highland chiefs: cultural, social and in terms of their relationship with the central power.¹

Chapter 2 examined the relationship between Highland chiefs and the Edinburgh legal profession. In the later 15th century and early 16th century chiefs attended the central courts either personally or by employing a procurator to plead for them. However these procurators cannot be described as belonging to a distinct legal profession and so it is to the period immediately following the establishment of the College of Justice in 1532 that the beginning of the relationship between Highland elite and Edinburgh

legal profession should be dated. Chiefs took cases to the Court of Session at this time and so must have employed members of the small group of advocates who serviced the central courts. That the origins of the relationship can be traced to the early 16th century is significant. It indicates that chiefs recognised that the balance of power between centre and periphery was changing and that they were willing to use the law and legal mechanisms from this early date.

Relations existed between the Edinburgh legal profession and many Highland chiefs in the period from c1550 to 1600. Most of the evidence relates to chiefs of kindreds on the mainland. Relations existed at an earlier date than was previously thought and reveals the significant degree of utilisation of the central courts by the Highland elite at a time that has often been portrayed as one of endemic lawlessness in the Highlands. Advocates were employed most often by the chiefs. A few of these lawyers such as Mr Oliver Colt and Mr John Moncreiff had their origins in areas on the cultural borderland between Highlands and Lowlands and some such as John Munro WS, John Buchanan WS and Thomas MacAulay WS were members of Highland kindreds. Some lawyers were employed by a number of chiefs indicating that relations between neighbouring kindreds were improving in the later 16th century

In the period from 1600 to 1650 the increasing amount of evidence indicates a greater reliance by Highland chiefs on members of the Edinburgh legal profession. The government took a more interventionist role in formalising relations between the Edinburgh legal profession and the Island chiefs by nominating the houses of lawyers as places at which chiefs were to be cited to appear in Edinburgh. The chiefs employed a larger number of writers during this period because the nature of work being carried out by lawyers was changing with greater emphasis on conveyancing as the land

market developed. A group lawyers began to specialise in Highland clients during these years: James Gibson advocate, James Mowat, writer, James Logie, writer, Alexander Cunningham and John MacLey. Some of them, such as Logie and MacLey, were Gaelic speakers and made use of their bilingual skills. These men came from geographical areas in the border zone between the two cultures of Scotland. A larger number of Highlanders entered the legal profession and serviced the needs of their kindreds from Edinburgh.

An important change in the nature of the relationship between chief and lawyer occurred in the later 17th century. A significant number of Highlanders, many younger sons of chiefs or members of the clan gentry, moved into the Edinburgh legal profession so that a large amount of the legal work of the chiefs' was carried out or organised by kinsmen based in Edinburgh. The rise of "clan-lawyers" meant that the client-lawyer relationship was more likely to be governed by kinship in the later 17th century than it had been in the later 16th century. A number of factors have been suggested to explain this process: the rising status of the legal profession, the increasing size of the profession, the cultural assimilation of the Highland elite into Lowland society, and the financial crisis faced by the Highland chiefs in the later 17th century. The MacKenzies were the most successful kindred in terms of the number of lawyers in Edinburgh. This reflected the cultural orientation of the MacKenzie kindred; they were highly integrated with Lowland society and recognised the importance of securing influence in the legal profession.

The study of the relationship between Highland chiefs and Edinburgh lawyers has also extended our view of the nature of legal work being carried out by lawyers in early modern Scotland. Legal work carried out for the chiefs in the late 16th century principally involved work for cases going through the central courts of Session, Privy

Council and Justiciary. The period from 1600 to 1650 saw an increasing amount of conveyancing and the later 17th century witnessed explosive growth in the management of the legal problems stemming from excessive indebtedness.

Chapter 3 examined the relationship between chiefs and the lawyers who worked for them in the locality. In the period before 1550 two distinct traditions were operating in the Highlands: the Gaelic hereditary legal profession and notaries public working in the Scottish feudal law. It was argued that the end of the Lordship of the Isles marked the end of patronage of the breves and so Gaelic oral lawyers make no appearance in the relationship between chiefs and lawyers in the period from c1550 to 1700. Notaries public were being employed by the Lords of the Isles as far back as the 15th century. These men were often churchmen or members of hereditary professional families who had moved into the church. Some may have been incomers from bilingual areas bordering the Highlands. Other chiefs such as the Earl of Sutherland, Grant of Freuchy and Munro of Foulis were shown to have employed notaries who were churchmen based in the northern dioceses but who were not permanent members of their households.

A significant change took place in the nature of local lawyers working for chiefs in the years after 1550. Incoming Scots speakers from outside the kindred took over the top positions as notaries public and legal servitors. Many of these individuals again appear to have their origins in areas bordering the Highlands and are likely to have been bilingual. At this time the chiefs stopped employing notaries on an ad hoc basis and employed full time notaries as members of their households to organise their local legal work. This reflected the increasing pervasiveness of central government. The analysis of this relationship has indicated the nature of work being carried out by local notaries. They spent much time travelling through the lands of the chiefs, to the local

burghs and to Edinburgh and were responsible for drawing up a wide range of documentation.

The role of the burghs bordering the Highlands was discussed and their importance as legal centres for the chiefs highlighted. The lawyers who worked in Inverness were examined throughout the period and it was shown that by the later 17th century members of the Highland kindreds moved into the local legal profession in Inverness. Kinship therefore dictated the client-lawyer relationship in the local burghs in the same way that it did with the Edinburgh legal profession in the later 17th century.

Another group of local lawyers operating in the Highlands in the later 17th century were identified. Men such as Donald MacKay writer in Thurso, Thomas MacNab, writer in Logierait and Andrew MacPherson notary public in Badenoch. These men were not resident in major burghs close to the Highlands or as permanent members of the household of chiefs but operated in smaller settlements or in rural areas. It has been suggested that the appearance of this group of lawyers reflected the expansion of the Highland economy and the extension of landholding in the Highlands through wadsetting in the later 17th century. These lawyers may have functioned in a part time capacity and worked the land themselves.

Chapter 4 discussed the relationship between the Campbell of Glenorchy chiefs and the Edinburgh legal profession. Sir Colin Campbell of Glenorchy and his son and heir Sir Duncan employed a number of Edinburgh advocates to represent them in the Court of Session in the later 16th century but Mr Oliver Colt, advocate, was paid a regular pension and was employed as a permanent legal agent in the capital. His connections with the burgh of Perth may have cemented relations with the Glenorchy Campbells who owned a residence in the burgh.

In the years between 1600 and 1650 the Campbells of Glenorchy became increasingly reliant on their legal agents in Edinburgh and the relationship became closer. Sir Duncan and his sons employed the advocate Mr David Primrose to organise and oversee the kindred's legal affairs in the capital. A family connection already existed with Primrose's father and the relationship with Mr David Primrose went beyond the narrowly professional developing into a close social relationship. After Sir Duncan's death in 1631 David Primrose continued to work for the family but the role of coordinator of the legal affairs was taken over by Archibald Campbell the brother of Campbell of Lawers. This marked a new departure as Archibald Campbell was a kinsman of the Glenorchy chiefs. He acted as a lobby agent working to secure Sir Colin's much coveted peerage and also provided Sir Colin with extensive political advice at the time of the Covenanting Revolution.

The 1650s was a period when no one single lawyer was involved in overseeing the legal affairs of the family because of the disruptive political environment. In the later 17th century Alexander Campbell, the brother of John Campbell, Earl of Breadalbane, was expected to become his brother's legal agent but his early death opened the way for another kinsman, Colin Campbell of Carwhin WS, to operate in this capacity. Carwhin was therefore one of the "clan-lawyers" of the later 17th century.

The relationship between Glenorchy chiefs and Edinburgh lawyers followed the pattern described in Chapter 2 with the employment of Edinburgh advocates in the 16th century, the increasing close relationship between chiefs and Edinburgh lawyers in the early 17th century and the intrusion of members of the Highland elite into the Edinburgh legal profession in the later 17th century as "clan-lawyers".

Chapter 5 made use of the Delvine Papers in the National Library of Scotland to study the career of one particular lawyer of the later 17th century: Mr John MacKenzie advocate, a younger son of MacKenzie of Coul, who became a clerk of the Court of Session but maintained a very wide client base made up of many Highland kindreds. The nature of the work MacKenzie carried out for his clients was examined. MacKenzie offered his clients a broad range of services. His legal work included conveyancing, criminal work, marriage advice and most importantly, in terms of its recurrence in the correspondence, the management of debt. MacKenzie also oversaw the financial affairs of his clients such as paying taxes, selling the produce of their lands and giving investment advice. MacKenzie also operated as a "fixer"; using his connections in legal and government circles to further the interests of his clients. Finally he acted as a vital source of information and as a presence for his clients in the capital.

The client base of MacKenzie in the 1680s and 1690s was analysed. Kinship was shown to be the major factor determining the client-lawyer relationship. MacKenzie can therefore be considered to be part of the group of Gaelic speaking "clan-lawyers" of the later 17th century. He also worked for a significant number of clients who were not related to him indicating that his skills as a lawyer could attract clients and for a number of Highland ministers and a few Highlanders who were not from the landowning class. The majority of his clients came from Highland areas outside Campbell influence. His employment by a considerable number of the clans of the Northern Highlands reveals that antagonisms between kindreds in the area were certainly of far less importance in the later 17th century.

Chapter 6 examined the relationship between Sir Duncan Campbell of Glenorchy and his notary public Gavin Hamilton in the later 16th and early 17th centuries. The

documentation in the Breadalbane Muniments enables us to examine in more detail than is possible for other notaries of this period, the career of a local lawyer in the household of a chief. It seems likely that Hamilton came from a bilingual background and his work involved him travelling extensively throughout the Campbell of Glenorchy lands, to local burghs and to the Privy Council in Edinburgh. His output as a notary public included instruments of sasines, bonds of manrent, contracts of fosterage, tacks etc.. Hamilton appears to have been intimately involved in the aggressive territorial expansion of the Campbells of Glenorchy under Sir Duncan Campbell of Glenorchy. That this expansion had little regard for the niceties of conveyancing is evident from the correspondence between Hamilton and Sir Duncan after Hamilton had left Sir Duncan's service, and from a series of documents which seem to indicate that a number of forgeries had been carried out by Hamilton for Sir Duncan as part of the landed expansion of the Campbell of Glenorchy kindred. Hamilton attempted to blackmail Sir Duncan who was forced to resume his financial support of the Hamilton family.

Chapter 7 focused on the financial aspects of the relationship between chief and lawyer: legal fees and moneylending. The level of pension paid to lawyers for work carried out over a year for a client, and for consultations for one off pieces of work, increased substantially between the later 16th century and the early 17th century. There was no increase in consultation fees and only a moderate increase in the level of pensions between the early 17th and late 17th century. Some Edinburgh advocates were earning very large sums from consultations by the early 17th century. At a time of inflation and the rapidly increasing prestige of the legal profession with the heightened authority of the central courts, increasing demand for legal services meant that the Edinburgh lawyers could command higher and higher levels of fees. The costs of justice were therefore rising significantly at the time when Highland chiefs became

more likely to make use of the services of Edinburgh lawyers. The later 17th century did not witness any inflation in legal fees. This was partly due to the general economic environment following the mid century crisis but may also reflect the expansion of the legal profession that led to an increase in supply of lawyers and so put less pressure on fees.

Moneylending by Edinburgh lawyers to Highland chiefs was also analysed. Highland chiefs began to borrow in earnest from the Edinburgh legal profession in the early 17th century and there was extensive moneylending by lawyers to chiefs in the period before the Covenanting Rebellion. However the economic disruption of the Civil war period put severe strains on the finances of chiefs as rents were decimated and creditors appraised land for recovery of debts.

The moneylending activity of MacKenzie lawyers in the later 17th century was examined using the Register of Deeds. The debt market recovered during these years but in more restrained terms than that before the Civil Wars. The extensive moneylending activity of one particular MacKenzie lawyer, Sir George MacKenzie of Rosehaugh, was examined and indicated how the profits of the law were channelled into the debt market by wealthy advocates during the Restoration.

Chapter 7 examined the extension of indebtedness amongst the Highland elite and explored the effects of this on the chiefs. Borrowing began in the later 16th century and some chiefs were experiencing financial problems related to the levels of their debt at this time. The level of indebtedness increased substantially in the early 17th century. The Covenanting Wars and their aftermath devastated the Highland economy and so the ability of chiefs to repay debts and led to a further escalation of indebtedness. As a result the later 17th century was a period of chronic indebtedness and financial crisis

for the Highland chiefs. The legal processes ensuing from the problems of indebtedness resulted in a closer reliance on the legal profession since lawyers could offer advice about how to manage large amounts of debt. It was argued that the rise of indebtedness and the financial malaise that followed was a crucial feature of the life of a Highland chief between c1550 and 1700.

The effects of this financial crisis on the chiefs were discussed. It was argued that this had profound effects on the nature of Highland society: the power of the chiefs diminished as many handed control of their lands to commissions that aimed to improve the financial position of the kindred. Embroiled in legal cases related to their debts, and often unable to enter Edinburgh unless secured by protection orders from the government, the power and prestige of the chief declined. The decline in the position of chief was balanced by the rising power of those in the kindred who were involved in the commissions or who had increased security of tenure through a wadset.

The financial crisis had important psychological effects on the chiefs; producing feelings of despair, decline and insecurity. The chiefs of the later 17th century looked back to a golden age of chiefly power in the late 16th and early 17th century, and some attempted to recreate themselves in a more authentically "Highland" light. This reflected the anxieties caused by financial distress but was also a response to social and cultural change.

A number of important themes have emerged from the study of the relationship between chiefs and lawyers. Chiefs employed lawyers from the inception of the Court of Session. This reflects an acknowledgement of the rising importance of the central power and a willingness to solve disputes in the courts. This view should therefore counterbalance notions that the chiefs had no interest in the law and encouraged

lawlessness. Indeed the fact that different kindreds were employing the same lawyers from the later 16th century indicates that kindred rivalry and feuding were on the decline from this period. However bonds of kinship remained a feature of Highland society throughout the 17th century and the relationship between chief and lawyer was more likely to be governed by kinship in the later 17th century than it had been in the 16th century.

The theme of integration of the Highland elite into Lowland society can be followed in the relationship between chiefs and lawyers. A small number of Edinburgh lawyers belonged to Highland kindreds in the 16th century but by the later 17th century a large number of the Highland elite and non elite Highlanders had moved into the Edinburgh legal profession.

This study has highlighted the importance of the bilingual lawyer, fluent in both Scots and Gaelic, in the legal profession of early modern Scotland. Individuals who came from the area where the two cultures of Scotland overlapped played an important role in the servicing the legal needs of the chiefs in the courts in Edinburgh and in the locality.

Indebtedness also emerges as an important theme and lawyers were intimately involved in this: their fees added to the costs of law, they acted as a major source of credit for the chiefs and were responsible for the management of the problems that ensued from the chiefs' excessive indebtedness. Chiefs began borrowing from the late 16th century and by the later 17th century many were faced with financial difficulties caused by chronic indebtedness. This resulted in a profound decline in the position of the Highland chiefs who became insecure, gloomy and backward looking.

¹ This was also the case in terms of the Highland economy and the religious life of the chiefs. These aspects of the lives of chiefs have not been considered in detail in this study.

APPENDIX I: APS, iii, 465

**"The Roll of the names of the landislordis and baillies of landis duelland on the
bordouris and in the hielandis quhair brokin men hes duelt and pntlie duellis"**

"Hielandis and Iles"

Duke of Lennox

Laird of Buchanan

Laird McFarlane of the Arroquhar

Laird of Luss

Laird of Mcawla of Ardincaple

Laird of Merchistoun

Laird of Glenneigyis

Earl of Glencarne

Laird of Kilcreuch

Tutor of Menteith

Laird of Knokhill

Hary Schaw of Cambusmoir

Laird of Kippanross

Laird of Burley

Laird of Keir

Master of Levingstoun

Lord of Down

Lord Drumond

Laird of Tullibardin

Laird of Glentorquhy
Laird of Lawerch
Laird of Weyme
Abbot of Inchaffray
Colin Campbell of Ardbey
Laird of Glenlyon
Earl of Atholl
Laird of Gratullie
Laird Strowane Rosone
Laird Strowane Murray
Laird of Wester Wemyss
Laird of Abbotishall
Laird of Teling
Laird of Inchemartine
Laird of Purie Fothringhame
Laird of Moncreiff
Laird of Balleachane
Barroun of Fandowie
Earl of Erroll
Earl of Gowrie
Laird of Cultybragane
Lord Ogilvie
Laird of Clovay
Laird of Fintray
Laird of Edzell
Earl of Mar
Master of Elphingstoun

Earl of Huntlie
Master of Forbes
Laird of Grant
Mackintosche
Lord and Tutor of Lovat
Cheisholme of Cumer
Laird of Glengarry
McKenzie
Laird of Fowlis
Laird of Balnagoun
Tutor of Cromartie
Earl of Sutherland
Laird of Duffus
James Innes of Touchis
Earl of Caithness
Earl Merschall
Lord Oliphant
Laird of Boquhowy
Laird of Dunnibeyth
MacKy of Far
Torquill McCloyd of Togoyth
Laird of Garloch
Makgillichallum of Raasay
McCloid of the Harrich
McKynoun of Strathodeill
McNeill of Barrey
McKane of Ardnamrchin

Allane McKane of Ilandterum
Laird of Knoydert
McLane of Dowart
Laird of Ardgouir
Johnne Stewart of the Appin
McCoull of Lorne
McCoull of Roray
Laird of Lochynell
Laird of Caddell
Laird of Skermrlie for Rauchy
McCondoquhy of Innerraw
Angus McConeill of Dunyveg and Glennis
Laird of Lowip
Sherrif of Bute
Laird of Camys
Earl of Ergile
Laird of Auchinbreck
Laird of Ardkinglass
McNauchtane
McLauchlane
Laird of Lawmont
Laird of Perbrak
Laird of Duntrune
Constable of Dundy Laird of Glastry
Laird of Elanegreg
Laird of Otter
Laird of Coll

Makalayne of Lochbuy

McFee of Collowsay

Lord Hamiltoun

APPENDIX II: APS, iii, 466-7

"The Roll of the clannis that hes capitanes cheiffis and chiftanes quhome on thai depend oftymes aganis the willis of thair landislordis alsweill on the bordorl as hielandes and of sum speale personis of braches of the saidis clannis"

"Hielandis and Iles"

Buchananis

McFerlanis Arroquhar

McKnabbis

Grahmes of Menteith

Stewartis of Buchquhidder

Clangregor

Campbellis of Lochnell

Campbellis of Innerraw

Clandowill of Lorne

Stewartis of Lorne or of Appin

Clane McKane of Avrict

Stewartis of Athoill and ptis adiacent

Clandonoquhy in Athoill and ptis adiacent

Menzess in Athoill and Apnadull

Clan McThomas in Glensche

Fergussonis

Spaldingis

Macintosches in Athoill

Clanchamroun

Clanrannald in Lochaber

Clanrannald of Knoydert modert and glengardy

Clanlewid of the Lewis

Clanlewid of the Harray

Clanneill

Clankynnon

Clan Jeane

Clanquattan

Grantis

Frasris

ClanKanze

Clanandreis

Monrois

Murrayis in Suthland

APPENDIX III

The Highland Chiefs

Buchanan of that Ilk
MacFarlane of Arrochar
Colquhoun of Luss
MacAulay of Ardincaple
Campbell of Earl of Argyll
Campbell of Glenorchy
Campbell of Lawers
Campbell of Glenlyon
Campbell of Cawdor
Campbell of Auchinbreck
Campbell of Ardkinglass
Menzies of Weem
Earl of Atholl
Stewart of Grandtully
Stewart of Appin
Robertson of Struan
Grant of Freuchy
MacIntosh of Dunnachton
Fraser of Lovat
Chisholm of Comer

MacDonald of Glengarry
MacKenzie of Kintail
MacKenzie of Tarbat
Munro of Foulis
Ross of Balnagoun
Urquhart of Cromarty
Earl of Sutherland
MacKay of Strathnaver
MacLeod of Dunvegan
MacKinnon of Strathordle
MacNeill of Barra
Captain of Clan Ranald
MacLean of Duart
MacLean of Coll
MacLean of Lochbuy
MacDougall of Dunollie
MacNaughtane
MacLauchlan
Lamont
MacNab
MacGregor
Cameron of Lochiel
MacPherson of Cluny
Sutherland of Duffus

APPENDIX IV

Edinburgh Lawyers employed by chiefs before 1600

Lawyer, clients, sources.

1. **Mr Henry Balfour**, advocate: MacDonald of Glengarry, Faculty of Advocates, 10, Fraser, Grant, iii, 189-92.

2. **Mr Rannald Bane**, procurator: Bane of Tulloch, RPC, first, v, 265 and 372, SRO Commissary Court Records, CC 8/8/35.

3. **William Bannerman**, procurator: Grant of Freuchy, Earl of Atholl, RPC, first, iv, 663, vi, 410.

4. **Mr Umphra Bleinsheillis**, advocate: Munro of Foulis, Faculty of Advocates, 17, RPC, first, iv, 450-1.

5. **Mr David Borthwick**, advocate: MacDonald of Islay, Faculty of Advocates, 17, RPC, first, ii, 649-50.

6. **Mr Edward Bruce**, advocate: MacFarlane of Arrochar, Faculty of Advocates, , RPC, first, iv, 599.

7. **John Buchanan**, writer: Buchanan kindred, Register of Writers to the Signet, 43, Clan Campbell, vi, 119, viii, 145, SRO Bread. Muns., GD 112/2/6/35, RPC, first, iv, 593, v, 381-2, 398-9 and 585.

8. **Mr Oliver Colt**, advocate: Campbell of Glenorchy, MacDougall of Dunolly, Campbell of Glenlyon, Faculty of Advocates, 39, RPC, first, iv, 180, 315, SRO Bread. Muns., GD 112/1/268, Clan Campbell, vi, 81, viii, 186.

9. **Mr Thomas Craig**, advocate: Campbell Earl of Argyll, Cameron of Lochiel, MacLean of Coll, Colquhoun of Luss, MacKenzie of Kintail, MacDougall of Dunolly, Munro of Foulis, Earl of Sutherland, Grant of Freuchy, Faculty of Advocates, 43, RPC, first, ii, 361-2, 500, 546, 587-8, 649-50, iii, 132-3, 235, iv, 69, 403, 727-8, v, 740-1, 746, Lamont Papers, 105, Fraser, Grant, iii, 176-9, 189-92, 401-2, Old Ross-shire, i, 107-110.

10. **Mr John Dempster**, advocate: MacIntosh of Dunnachton, Faculty of Advocates, 53, RPC, first, iv, 747, v, 737, Old Ross-shire, i, 107-110.

11. **Mr James Donaldson**, advocate: Grant of Freuchy, Faculty of Advocates, 57, RPC, first, v, 740, Munro Writs, no. 120, Fraser, Grant, ii, 37-8, iii, 176-9, 189-92, Cawdor Bk., 179-80.

12. **John Haliday**, advocate: Campbell of Glenlyon, Fraser of Lovat, Faculty of Advocates, 93, Clan Campbell, vi, 48-9, Chron. Frasers, 193-6.

13. **Mr Thomas Harvy**, advocate: MacLean of Duart, Grant of Freuchy, Faculty of Advocates, 98, RPC, first, ii, 491, 519-21, Fraser, Grant, iii, 391-3.

14. **John Henderson**, advocate: MacAulay of Ardincaple, Faculty of Advocates, 99, RPC, first, iv, 655-6.

15. **Mr Alexander King**, advocate: MacLeod of Dunvegan, Campbell of Ardkinglass, MacDonald of Glengarry, Faculty of Advocates, 117, RPC, first, iv, 69, 599, 607, ix, 503, SRO Bread. Muns., GD 112/1/341, Pitcairn Trials, i, 391, Fraser, Grant, iii, 176-9, 189-92.

16. **Mr Henry Kinross**, advocate: Menzies of that Ilk, MacIntosh of Dunnachton, Campbell of Glenorchy, Faculty of Advocates, 118, RPC, first, ii, 515-17, vii, 368, second, i, 505, Clan Campbell, vi, 89, The MacKintosh Muniments no. 272.

17. **Mr Clement Littill**, advocate: Earl of Caithness, Faculty of Advocates, 124-5, RPC, first, i, 449, ii, 37-8, 57-8, 437.

18. **Thomas McCaulay WS**, writer: Colquhoun of Luss, MacAulay of Ardincaple, Register of writers to the Signet, 186, RPC, first, v, 381, xi, 69, xiii, 30, 505, second, iv, 259, SRO Cromarty Muniments, GD 305/1/148/7.

19. **Mr David Makgill**, advocate: Menzies of that Ilk, Faculty of Advocates, 132, RPC, first, ii, 515-17.

20. **Mr Alexander Mauchane**, advocate: MacLean of Duart, Earl of Atholl, Faculty of Advocates, 145, RPC, first, i, 313, ii, 587-8, Coll. de Rebus Alban., 7, 13.

21. **Mr Thomas Mauer**, advocate: Munro of Foulis, Faculty of Advocates, 145, RPC, first, iv, 551, vii, 432.

22. **Mr Thomas Merjoribankis**, advocate: Campbell of Glenorchy, Faculty of Advocates, 144, RPC, first, i, 37, SRO Bread. Muns., GD 112/2/3a/1.

23. **Mr John Moncreiff**, advocate: Campbell of Glenorchy, Menzies of that Ilk, MacKenzie of Kintail, Faculty of Advocates, , RPC, first, v, 736, vi, 61, Fraser, Grant, iii, 176-9.

24. **Alexander Morrison**, advocate: MacNaughtane, Faculty of Advocates, 155, RPC, first, iv, 392-3, 456, SRO Bread. Muns., GD 112/2/149/5.

25. **David Moysie**, notary public: MacLeod of Lewis, Register of Writers to the Signet, 233, RPC, first, iii, 18, 517, iv, 605.

26. **John Munro**, writer: Munro of Foulis, Register of Writers to the Signet, 230, RPC, first, iv, 254-6, 456, 551, SRO Bread. Muns., GD 112/2/6/29, Old Ross-shire, i, 373-4, Munro Writs nos 106, 107, 108, 110, 111, 132, 155.

27. **Mr John Nicolson**, advocate: MacDonald of Glengarry, Faculty of Advocates, 164, RPC, first, iv, 507-8, Fraser, Grant, iii, 189-92.

28. **Mr William Oliphant**, advocate: Earl of Argyll, Grant of Freuchy, Faculty of Advocates, 167, RPC, first, iv, 457, ix, 592-3, Pitcairn, *Trials*, ii, 62-3, Fraser, *Grant*, iii, 189-92.

29. **Mr Hew Rige**, advocate: Lamont of Inveryn, Faculty of Advocates, 179, RPC, first, i, 37.

30. **Mr John Scharp**, advocate: Campbell of Glenorchy, Earl of Atholl, Earl of Argyll, Earl of Sutherland, MacLauchlan of that Ilk, Faculty of Advocates, 189, RPC, first, i, 292-3, ii, 437, 459, 500, 515-17, 546-7, 587-8, v, 746, viii, 63-4, Lamont Papers, 105, Pitcairn, Trials, ii, 62-3, Old Ross-shire, i, 107-110.

31. **Robert Scott**, writer: Campbell of Glenorchy, Register of the Writers to the Signet, 283, Clan Campbell, vi, 29.

32. **Mr Alexander Skene**, advocate: Earl of Atholl, Cameron of Lochiel, Grant of Freuchy, MacKay of Strathnaver, Faculty of Advocates, 193, RPC, first, ii, 515-17, SRO Bread. Muns., GD 112/25/34, GD 112/2/77/7, SRO Robertson of Lude Muniments, GD 132/23, Fraser, Grant, iii, 130-1, 133-5.

33. **Mr Richard Spens**, advocate: Rose of Kilravock, Faculty of Advocates, 197, RPC, first, iv, 446-7, Fraser, Grant, iii, 176-9.

34. **Mr Richard Strang**, advocate: MacLean of Coll, MacLeod of Lewis, Faculty of Advocates, 203, RPC, first, i, 311-13, Coll de Rebus Alban., 7.

35. **Alexander Sym**, advocate: Earl of Atholl, Faculty of Advocates, 205, RPC, first, ii, 515-17.

36. **Mr James Wardlaw**, advocate: Campbell of Cawdor, Faculty of Advocates, 214, Cawdor Bk., 194-5, 205, 208.

37. **William Wylie**, writer: Earl of Atholl, Register of Writers to the Signet, , RPC,
first, v, 742.

APPENDIX V

Edinburgh Lawyers employed by chiefs 1600-1650

Lawyer, client, source.

1. **Andrew Aytoun**, advocate: Rose of Kilravock, Faculty of Advocates, 7, Rose of Kilravock, 316.
2. **Mr James Baird**, advocate: MacKay of Strathnaver, Faculty of Advocates, 9, RPC, second, v, 502-4.
3. **Alexander Balmanno**, writer: MacDougall of Dunolly, MacDonald of Glengarry, RPC, first, xiii, 270-1, second, ii, 241.
4. **John Bell**, procurator: MacAulay of Ardincaple, RPC, first, vi, 183.
5. **John Belschis**, advocate: MacIntosh of Dunnachton, Faculty of Advocates, 13, RPC, vii, 327-8.
6. **Samuel Birs**, writer: Earl of Atholl, Register of Writers, 28, RPC, first, vi, 167.
7. **Mr Robert Bruce**, advocate: Campbell of Glenlyon, Faculty of Advocates, 23, Clan Campbell, vi, 297-8.

8. **Robert Byres**, advocate: MacKenzie of Tarbat, Faculty of Advocates, 26, SRO Cromarty Muniments, GD 305/1/148/46.

9. **Mr John Callendar**, writer: Fraser of Lovat, RPC, second, vi, 102.

10. **Archibald Campbell**, agent: Campbell of Glenorchy, Earl of Argyll: for full discussion see Chapter 4.

11. **Mr William Chalmers**: Cameron of Lochiel, RPC, second, v, 481, vi, 72.

12. **Thomas Cramby WS**, writer: Cameron of Lochiel, MacIntosh of Dunnachton, Register of Writers, 74, RPC, first, xii, 454, 502-3, MacKintosh Muniments no. 296, Spalding Misc., iv, 257-8.

13. **Mr Alexander Cumming**, advocate: MacKenzie of Kintail, Faculty of Advocates, 47, Coll de Rebus Alban., 190-3.

14. **Alexander Cunningham**, writer: MacLeod of Dunvegan, MacLean of Duart, Register of Writers, 76, RPC, first, ix, 551, x, 573, xi, 38-9, 73-5, xii, 429-30, Book of Dunvegan, i, 38-9, NLS Delvine Papers, MS 1329 fl.

15. **Andrew Darline**, writer: MacDonald of Clan Ranald, Campbell of Argyll, RPC, second, vi, 212-13, 221, 339, Highland Papers, iv, 225-7.

16. **Alexander Don**, writer: Grant of Ballindalloch, Register of Writers, 88, RPC, second, vi, 112-13, 168.

17. **George Duff**, agent: Grant of Rothiemurcus, RPC, second, iii, 237.
18. **Mr James Farquharson WS**, writer: Marquess of Huntly, Farquharson of Monaltrie, Register of Writers, 102, RPC, second, iv, 588, v, 128, 163, vi, 150.
19. **Mr Mathew Forsyth**, advocate: MacKenzie of Kintail, Faculty of Advocates, 75, RPC, first, xiii, 373, Coll de Rebus Alban., 190-3.
20. **Hew Fraser**, servitor of Mr Francis Hay of Balhousie WS: MacLeod of Assint, RPC, second, vii, 363-4.
21. **Mr Alexander Gibson**, writer: Grant of Freuchy, Register of Writers, 117, RPC, vii, 332, Fraser, Grant, iii, 328.
22. **James Gibson**, advocate: MacIntosh of Dunnachton, Grant of Freuchy, Fraser of Lovat, Cameron of Lochiel, Faculty of Advocates, 80, RPC, first, xi, 255, xii, 40-1, second, iii, 556-7, vi, 176-8, 392-3, 495, vii, 220, MacKintosh Muniments nos.272, 360, Fraser, Grant, ii, 44-5, 50-1, 60-1, 61-2, 63, iii, 230.
23. **Mr Samuel Gray**, advocate: MacLeod of Assint, Faculty of Advocates, 90, RPC, second, vii, 363-4.
24. **Arthur Hamilton**, writer: Campbell of Glenorchy(see Chapter 6).
25. **Patrick Hamilton**, writer: Campbell of Glenorchy(see Chapter 6).

26. **Mr Francis Hay WS**, writer: MacLeod of Dunvegan, Munro of Foulis, Register of Writers, 142, RPC, second, ii, 621-2, v, 493-4, Munro Writs no. 201.
27. **John Hay**, advocate: Grant of Freuchy, Faculty of Advocates, 142, Fraser, Grant, ii, 59, 62-3, 82.
28. **Robert Hay**, advocate: Grant of Ballindalloch, Faculty of Advocates, 99, RPC, first, x, 70.
29. **Walter Hay**, advocate: Grant of Ballindalloch, Rose of Kilravock, Faculty of Advocates, 99, RPC, second, vi, 111-12, Rose of Kilravock, 316, 324.
30. **Thomas Hope**, advocate: MacDonald of Sleat, Faculty of Advocates, 104, RPC, second, ii, 2.
31. **William Inglisch**, writer: Campbell of Cawdor, Register of Writers, 157, Cawdor Bk., 298.
32. **Alexander Ireland**, writer: MacIntosh of Dunnachton, MacKintosh Muniments, nos. 374, 387, 423, 432.
33. **James Kennedy**, writer: Grant of Freuchy, Fraser, Grant, iii, 230.
34. **Mr William Lauder**, writer: MacIntosh of Dunnachton, Munro of Foulis, Fraser of Lovat, MacKay of Strathnaver, MacKenzie of Kintail, MacKintosh Muniments nos. 431, 473, Munro Writs, nos. 163, 176, 180, 186, SRO Reay Papers, GD 84/5/14, GD

84/9/1, GD 84/28/1B, SRO Cromarty Muniments, GD 305/1/148/104, Fraser, Grant, iii, 297-8, Coll de Rebus Alban., 193-5, Old Ross-shire, i, 180-1.

35. **Adam Lawtie**, writer: Munro of Foulis, Register of Writers, 175, Munro Writs, no. 165.

36. **Mr Robert Lermonthe**, advocate: Rose of Kilravock, Faculty of Advocates, 122, Rose of Kilravock, 316.

37. **James Logie**, agent: MacDonald of Sleat, Captain of Clan Ranald, Grant of Freuchy, MacKenzie of Tarbat, MacLean of Duart, MacKenzie of Kintail, RPC, ix, 345, 389, 399, x, 574, 654, 808, xi, 149-50, 382, 413, 527, xii, 112-13, 283, 698, xiii, 75-6, 427-8, 554, second, i, 376, ii, 621-2, iv, 7, 176-7, 281-2, 674-5, v, 511, vi, 53, 300, Clan Campbell, viii, 145, Pitcairn Trials, iii, 246, 542, 553, Highland Papers, i, 320-3, SRO Seaforth Muniments, GD 46/4/260.

38. **Alexander Lyntoun**, agent: Earl of Sutherland, Fraser, Sutherland, ii, 149, 150, 165-6.

39. **Joseph Miller**, advocate: MacDougall of Dunolly, Faculty of Advocates, 150, RPC, first, xii, 576, xiii, 365.

40. **Mr Roger Mowat**, advocate: MacDonald of Glengarry, MacNeil of Barra, Campbell of Glenorchy, Campbell of Cawdor, Campbell of Lawers, Captain of Clan Ranald, Lamont of that Ilk, Faculty of Advocates, 157, RPC, second, ii, 241, iii, 199, Taymouth Bk., 96, 106, Clan Campbell, vi, 239-40, 276, SRO Clanranald Papers, GD 201/1/26, Lamont Papers, 195, Cawdor Bk., 295.

41. **James Mowat**, writer: Campbell of Cawdor, Register of Writers, 23, RPC, first, iv, 628, xi, 278, Clan Campbell, vi, 160, 177, viii, 189, Highland Papers, iii, 175-6, 224, 266, MacKintosh Muniments nos. 227, 228, Cawdor Bk., 224-6, 239-41, 245, 246-7, 247-8, 249-50, 250-1, 252-3, 256, 261-2, 264-5.

42. **Robert Mudie**, writer: Campbell of Glenlyon, Clan Campbell, vi, 157.

43. **Daniel Munro**, writer: Munro of Foulis, RPC, second, vi, 358-9, Munro Writs, no. 204.

44. **John MacDonald**, advocate: MacDonald of Clan Ranald SRO Clanranald Papers, GD 201/1/63, SRO Reay Papers, GD 84/9/7.

45. **Hugh MacDougall**, servitor of John Nicoll WS: MacDougall of Dunolly, SRO Bread. Muns., GD 112/2/9/5.

46. **John McLey**, advocate: MacNeil of Barra, MacLeod of Dunvegan, Faculty of Advocates, 139, RPC, second, v, 5, 576, Book of Dunvegan, i, 99, 172, 173, 200-2, 227.

47. **John McRonal**d, advocate: Captain of Clan Ranald, MacNeil of Barra, MacDonald of Glengarry, Faculty of Advocates, 142, RPC, first, xiii, 19-20, second, iii, 199, vi, 112-13, vii, 561-3, SRO Clanranald Papers, GD 201/1/52-3.

48. **Gilbert Neilsoun**, advocate: Fraser of Lovat, Faculty of Advocates, 163, RPC, first, xi, 582-3.

49. **John Nicoll**, writer: MacLean of Coll, MacLean of Lochbuy, Campbell of Glenorchy, Campbell of Cawdor, Campbell of Auchinbreck, MacLeod of Dunvegan, Lamont of that Ilk, Register of Writers, 241, RPC, first, xii, 618, xiii, 554, second, i, 376, ii, 19, iv, 576, v, 493-4, vi, 147-8, 478, SRO Bread. Muns., GD 112/39/101/10-13, GD 112/2/9/5, Clan Campbell, vi, 180, 184-5, 300, Munro Writs, no. 185, Lamont Papers, 141-2, 148, 167, 181, 183, Book of Dunvegan, 223-4, 225-6.

50. **Mr Thomas Nicolson**, advocate: MacDonald of Glengarry, Faculty of Advocates, 165, RPC, second, vi, 358-9, 478, vii, 363-4, Justiciary Cases, i, 45-7.

51. **Mr Patrick Nisbet**, advocate: Campbell of Lawers, Faculty of Advocates, 165, Clan Campbell, vi, 273.

52. **Mr John Paip**, advocate: Campbell of Glenorchy, MacAulay of Ardincaple, MacFarlane of Arrochar, Faculty of Advocates, 169, RPC, second, i, 274, 290, vi, 116, 220-1, 22

53. **Hugh Peiblis**, writer: MacLean of Coll, MacKenzie of Tarbat, RPC, first, xiii, 534, SRO Cromarty Muniments, GD 305/1/150/29.

54. **Archibald Primrose**, writer: Campbell of Glenorchy(see Chapter 4).

55. **Mr David Primrose**, advocate: Campbell of Glenorchy(see Chapter 4).

56. **Mr John Rae**, advocate: Campbell of Glenlyon, Faculty of Advocates, 175, Clan Campbell, viii, 306.

57. **Mr John Rollock**, advocate: Campbell of Cawdor, Faculty of Advocates, 182, RPC, first, x, 443, second, iv, 216-17, Cawdor Bk., 223-4, 224-6, 241-2, 255.

58. **John Ross**, writer: Ross of Balnagoun, Register of Writers, 274, Old Ross-shire, i, 224.

59. **William Ross**, writer: Ross of Balnagoun, RPC, first, vi, 515, second, vii, 363-4.

60. **John Sandilandis**, advocate: MacKenzie of Kintail, Faculty of Advocates, 186, Coll de Rebus Alban., 193-5.

61. **George Stewart**, advocate: MacKay of Strathnaver, Faculty of Advocates, 200, SRO Reay Papers, GD 84/3/2.

62. **Anthony White**, writer: Campbell of Glenorchy, Campbell of Lawers, Colquhoun of Luss, SRO Bread. Muns., GD 112/1/420, GD 112/28/11, Clan Campbell, vi, 84, Pitcairn Trials, ii, 426-7, SRO Robertson of Lude Muniments, GD 132/191.

APPENDIX VI

Edinburgh Lawyers employed by chiefs and Lawyers of Highland origin 1650-1700

Lawyer, client, source

1. **Mr John Alexander**, advocate: MacLeod of Dunvegan, Faculty of Advocates, 4, Book of Dunvegan, i, 123.

2. **Mr Andrew Balfour**, writer: Campbell of Cawdor, Earl of Sutherland, Register of Writers, 16, Cawdor Bk., 374-5, NLS Delvine Papers, MS 1393 f3.

3. **Mr James Bayne**, advocate: Bain of Tulloch, Faculty of Advocates, 11, NLS Delvine Papers, MS 1236, f16.

4. **Mr John Bain WS**, writer: MacKinnon of Strathordle, MacLean of Coll, Marquess of Atholl, MacLeod of Dunvegan, Earl of Sutherland, Grant of Freuchy, MacKenzie of Tarbat, Register of Writers, 21, RPC, third, i, 27, 136-7, vii, 397-8, viii, 56, 141, 191, Book of Dunvegan, i, 55-6, 124, 127, 234, 235, 236, Fraser, Sutherland, ii, 173-4, iii, 203-13, Fraser, Grant, iii, 346-55, SRO Cromart Muniments, GD 305/1/147/1, GD 305/1/147/14, GD 305/1/147/140.

5. **George Bannerman**, advocate: Marquess of Atholl, Faculty of Advocates, 10, RPC, third, 96.
6. **Mr John Baylie**, advocate: MacPherson of Cluny, Faculty of Advocates, 8, RPC, third, iii, 542.
7. **Mr Alexander Campbell**, advocate: Campbell kindred, Faculty of Advocates, 27, RPC, third, xi, 307-21.
8. **Alexander Campbell**(brother of Breadalbane), writer: Campbell of Glenorchy(see Chapter 4).
9. **Mr Archibald Campbell**, advocate: Campbell kindred, Faculty of Advocates, 28, Lamont Papers, 219, 235.
10. **Mr Colin Campbell of Aberuchill**, advocate: Campbell kindred, Faculty of Advocates, 28, SRO Bread. Muns., GD 112/39/130/8, RPC, third, ii, 329-332.
11. **Colin Campbell of Carwhin WS**, writer: Campbell of Glenorchy Register of Writers, 50(see Chapter 4).
12. **Mr John Campbell WS**, writer: Campbell of Argyll, Register of Writers, 57, RPC, third, iv, 312-13, 620, v, 607-8, xi, 102-3, xiii, 341, Lamont Papers, 277, SRO MacDonald of Sanda Muniments, GD 92/27, 92/44, 92/67, 92/124, Cawdor Bk., 338.
13. **Mungo Campbell**, writer: Campbell of Glenorchy, RPC, third, ii, 187, SRO Bread. Muns., GD 112/23/47/23, 112/2/42/1.

14. **Ronald Campbell WS**, writer: Campbell kindred, Register of Writers, 53, SRO Campbell of Duntroon Muniments, GD 116/1/129, 116/1/146.

15. **George Colquhoun WS**, writer: Colquhoun of Luss, Register of Writers, 63, RPC, third, iii, 688, iv, 676, x, 150-2.

16. **Mr James Cunningham**, writer: Earl of Sutherland, Register of Writers, 76, RPC, third, i, 52-3, 202.

17. **Sir John Cunningham**, advocate: Cameron of Lochiel, Faculty of Advocates, 48, RPC, third, v, 87-9, 361-4.

18. **George Dallas WS**, writer: Captain of Clan Ranald, MacKay of Strathnaver, Register of Writers, 80, RPC, third, iii, 287, viii, 469, SRO Clanranald Papers, GD 201/1/85, SRO Reay Papers, GD 84/4/1, Old Ross-shire, i, 379, NLS Delvine Papers, MS 1375, f58.

19. **Mr David Dewar**, advocate: MacLeod of Assint, Faculty of Advocates, 54, RPC, third, iii, 338.

20. **John Ferrier**, agent: Campbell of Glenorchy, SRO Bread. Muns., GD 112/39/105/14, 112/23/31/11.

21. **Partick Fraser**, advocate: MacLeod of Assint, Faculty of Advocates, 77, RPC, third, i, 469.

22. **Mr Robert Fraser**, advocate: Fraser of Lovat, Faculty of Advocates, 77, Hopkins, Glencoe, 461, NLS Delvine Papers, MS 1391, f37.

23. **Mr Thomas Gordon WS**, writer: MacPherson of Cluny, Register of Writers, 124, SRO MacPherson of Cluny Papers, GD 80/115, 80/182, RPC, third, vii, 575, 587.

24. **Donald Grant**, writer: MacIntosh of Dunnachton, MacKintosh Muniments, no. 529.

25. **Mr James Grant**, advocate: Farquharson of Invercauld, MacPherson of Cluny, Grant of Freuchy, Faculty of Advocates, 88, RPC, third, viii, 520-1, MacKintosh Muniments, nos 504, 527, 604, SRO MacPherson of Cluny Papers, GD 80/135, Fraser, Grant, iii, 247-8, 360-1, 475-6.

26. **Mr Patrick Lyon**, advocate: Stewart of Grandtully, Faculty of Advocates, 128, Fraser, Grandtully, ii, 209-12.

27. **Mr William Maxwell**, advocate: MacDonald of Glengarry, Faculty of Advocates, 146, RPC, third, ii, 622-3, Fraser, Maxwell Inventories, ii, 263-4, 254-5, 279-80.

28. **Mr Alexander Munro**, advocate: Munro of Foulis, Faculty of Advocates, 154, Munro Writs, nos. 247, 273, SRO Reay Papers, GD 84/4/2.

29. **Hugh Munro**, writer: Munro of Foulis, Register of Writers, 230, Munro Writs, nos. 250, 253, RPC, third, i, 469.

30. **Mr Robert Munro**, advocate: Munro of Foulis, Faculty of Advocates, 154, Munro Writs no. 283, Old Ross-shire, i, 348-9, NLS Delvine Papers, MS 1391 f37.
32. **Aeneas McDonell**, writer: MacDonald of Glengarry, RPC, third, iv, 656-7.
33. **Ronald McDonell**, writer: MacDonald of Glengarry, RPC, third, iv, 656-7.
34. **John MacFarlane**, writer: Marquess of Atholl, Register of Writers, 192, RPC, third, vii, 397-8, viii, 191, Fraser, Cromartie, i, 48-9.
35. **Angus MacIntosh**, writer: MacIntosh of Dunnachton, MacKintosh Muniments, nos. 469, 525.
36. **Lachlan MacIntosh**, writer: MacIntosh kindred, MacKintosh Muniments, no. 596.
37. **Donald MacKay**, writer: MacKay of Strathnaver, SRO Reay Papers, GD 84/23/3.
38. **Mr Alexander MacKenzie**, writer: MacLean of Lochbuy, RPC, third, i, 201, xiii, 298-9, SRO MacLaine of Lochbuie, GD 174/42.
39. **Mr Colin MacKenzie**, advocate: MacKenzie kindred, Faculty of Advocates, 135, RPC, third, v, 507, vi, 277, xiii, 352-3, ix, 74, xi, 171.
40. **Sir George MacKenzie of Rosehaugh**: advocate(see Chapter 6)

41. **Sir George MacKenzie of Tarbat**:(see Chapter 6).
42. **George MacKenzie**, writer: Register of Writers, 199, RPC, third, iii, 688, vii, 799-801, MacKintosh Muniments, no. 611, Fraser, Cromarty, i, 57-8.
43. **John MacKenzie of Delvine**: advocate, clerk of the Court of Session(see Chapter 6)
44. **John MacKenzie**, writer: RPC, third, i, 319-20.
45. **John MacKenzie, younger**, writer: SRO Register of Deeds, RD 2/7 927-8, 4/15 324, 2/15 493-4, 4/18 911-12, 4/19 798.
46. **Colin MacKenzie**, writer: SRO Register of Deeds, RD 2/17 793-4, 2/17 794-5, 2/29 139-40, 2/32 391, 2/33 543-4, 2/36 306-7, 2/37 436-7.
47. **James MacKenzie**, advocate, Faculty of Advocates, 135, SRO Cromarty Muniments, GD 305/1/149/120.
48. **Mr Rory MacKenzie**: advocate, Faculty of Advocates, 136, RPC, third, viii, 265, ix, 668, 683, x, 70, xiii, 50.
49. **Mr Roderick MacKenzie younger**: advocate, Faculty of Advocates, 136, RPC, third, v, 328, 507, xii, 403.
50. **Roderick MacKenzie of Findon**: advocate, Faculty of Advocates, 136, RPC, third, vi, 28-9, xi, 241, 417-18, Munro Writs, no. 255, 261, 280.

51. **John MacLean WS**, writer: Register of Writers, 206, SRO Clanranald Papers, GD 201/4/4, 201/4/10, 201/4/11, 201/4/13, SRO Bread. Muns., GD 112/39/157/11, Hopkins, Glencoe, 312.

52. **Mr Alexander MacLeod**, advocate: MacLeod of Dunvegan, Faculty of Advocates, 139, SRO Clanranald Papers, GD 201/3/55, SRO MacPherson of Cluny Papers, GD 80/366, Fraser, Cromarty, i, 84-5, Book of Dunvegan, i, 241-2, 247, 248, 249-50.

53. **Roderick MacLeod**: writer, SRO Clanranald Papers, GD 201/3/55, 201/3/56.

54. **Mr Aeneas MacPherson**, advocate: MacPherson of Cluny, Faculty of Advocates, 141, SRO MacPherson of Cluny Papers, GD 80/113, 80/120, 80/127, 80/165, RPC, third, viii, 369, x, 72-3, NLS Delvine Papers, MS 1275, f6.

55. **Donald MacPherson**, writer: MacPherson of Cluny, SRO MacPherson of Cluny Papers, GD 80/150.

56. **John MacPherson**, writer: MacPherson kindred, SRO MacPherson of Cluny Papers, GD 80/322, RPC, third, iii, 542, Fraser, Grant, iii, 358-9, SRO Bread. Muns. GD 112/2/8/15.

57. **Mr John Nisbet**, advocate: Campbell of Glenorchy, Faculty of Advocates, 165, SRO Bread. Muns., GD 112/39/105/17, 112/39/106/14-15.

58. **Duncan Robertson**, writer: Robertson of Lude, RPC, third, xii, 372, 441, SRO Robertson of Lude Muniments, GD 132/85, 132/348, 132/350.

59. **Hugh Ross**, writer: Ross kindred, RPC, second, vii, 363-4, SRO MacPherson of Cluny Papers, GD 80/170, 80/727, 80/732, 80/733.

APPENDIX VII

Clients of John MacKenzie, Advocate, c1683-1700, from the Delvine Papers in the National Library of Scotland.

1. J.A. Bayne, MS 1102.
2. Alexander Cooper, minister in Stornoway, MS 1104.
3. William Baillie in Inverness, MS 1230.
4. Sir Donald Bayne of Tulloch and sons, MS 1236.
5. Jean 3rd wife of Sir Ewen Cameron of Lochiel, MS 1247.
6. Alexander XIX Chisholm of Chisholm and John XX, MS 1250.(Alexander was MacKenzie's grandfather and John was his uncle: his mother's eldest brother).
7. William Chisholm of Stirkshaws, MS 1251.
8. Christian Dunbar of Bennetsfield, MS 1262.(John MacKenzie's sister)
9. James Fraser of Achnagairn, MS 1275.
10. Hugh Fraser of Balnain, MS 1275.
11. Hugh V of Belladrum and his brother Thomas, MS 1275.
12. Hugh Fraser of Boleskin, MS 1275.
13. William Fraser of Erchitt, MS 1275.
14. John Fraser of Errogie, MS 1275.
15. Robert Gordon of Cluny, MS 1280.
16. Sir Robert Gordon of Gordonstoun, MS 1281(John MacKenzie's second wife was a daughter)

17. Sir John Hay of Alderston, MS 1289.(John MacKenzie's third wife was Margaret Hay Sir John's daughter).
18. Alexander Hay of Huntingdon, MS 1289.
19. Thomas Hay of Mordington, MS 1289.
20. Innes of Towie, MS 1294.
21. James Lenton of Kincapple, MS 1300.(John MacKenzie's first wife was a daughter of Robert Lenton of Kincapple)
22. Patrick Lenton of Kincapple, MS 1300.
23. Robert Lenton of Kincapple, MS 1300.
24. MacDonald of Glencoe, MS 1305.
25. Coll MacDonald of Keppoch and Alexander his brother, MS 1305.
26. Hugh MacDonald, captain, MS 1307.
27. Lady Marie, wife of Sir Donald 3rd baronet of Sleat, MS 1307.
28. Sir Donald MacDonald of Sleat, 4th baronet, MS 1307.
29. Lady Margaret, wife of Sir Donald 4th baronet of Sleat, MS 1307.
30. Sir James MacDonald of Sleat, 6th baronet, MS 1308.
31. Allan MacDonald, ensign, MS 1311.
32. Lady Margaret MacDonald, wife of Angus IX of Glengarry, MS 1313.
33. Duncan MacIver in Carloway, Lewis, and Barbara his wife(MacKenzie's sister), MS 1314.
34. Murdoch V MacKenzie of Achiltry, MS 1315.
35. Alexander III MacKenzie of Applecross and John MacKenzie his brother, MS 1316.
36. Roderick IV MacKenzie of Applecross and Kenneth his brother, MS 1316.
37. Alexander MacKenzie I of Ardloch, MS 1319.
38. Murdoch MacKenzie II of Ardross, MS 1319.
39. Roderick MacKenzie, son of Alexander MacKenzie of Ardross, MS 1320.

40. John MacKenzie of Assint, MS 1323.
41. Col. Alexander MacKenzie, son of 3rd Earl of Seaforth, MS 1323.
42. Kenneth MacKenzie of Auldinny, MS 1324.
43. Colin MacKenzie of Bellamucky and son George, MS 1324.
44. Alexander II MacKenzie of Balmaduthy, MS 1325.
45. William III MacKenzie of Balmaduthy, MS 1325.
46. Sir Alexander MacKenzie of Broomhill, MS 1328.
47. Hector MacKenzie, brother of Sir Kenneth MacKenzie first baronet of Coul, MS 1329.
48. Sir Alexander MacKenzie of Coul second baronet, MS 1329, MS 1330 and MS 1331.
49. Janet, wife of Sir Alexander MacKenzie of Coul, MS 1331.
50. Kenneth MacKenzie, MS 1332.
51. William MacKenzie, MS 1332.
52. Alexander MacKenzie, MS 1332.
53. Sir John MacKenzie, third baronet of Coul, MS 1332.
54. Sir Colin MacKenzie, 4th baronet of Coul, MS 1333 and MS 1334.
55. Kenneth MacKenzie VI of Davochmaluag and his wife Marie, MS 1339.
56. Captain John MacKenzie, son of Roderick V of Davochmaluag, MS 1340.
57. Alexander MacKenzie VIII of Davochmaluag, MS 1340.
58. Charles MacKenzie of Ernsyde, MS 1341.
59. Sir Kenneth MacKenzie first baronet of Gairloch, MS 1342.
60. Colin MacKenzie, tutor of Gairloch, MS 1342.
61. George MacKenzie II of Gruinard and Kenneth his son, MS 1343.
62. George MacKenzie of Inchcoulter, MS 1345.
63. Roderick MacKenzie I of Kinchulladrum, MS 1346.
64. Colin and John, sons of Donald MacKenzie III of Loggie, MS 1351.

65. Murdoch MacKenzie V of Loggie, MS 1351.
66. Colin MacKenzie WS II of Muirtoun, MS 1352.
67. Thomas MacKenzie III of Ord, MS 1352.
68. Thomas MacKenzie of Pluscarden, MS 1352.
69. Colin MacKenzie IV of Redcastle, MS 1353.
70. Roderick MacKenzie V of Redcastle, MS 1353.
71. Sir Kenneth MacKenzie of Scatwell, MS 1354.
72. Isobel, wife of third Earl of Seaforth, MS 1356.
73. Colin MacKenzie, 4th son of second Earl of Seaforth, MS 1356.
74. Kenneth MacKenzie, 4th Earl of Seaforth, MS 1356.
75. Kenneth MacKenzie III of Suddie, MS 1360.
76. Simon MacKenzie of Torridon, MS 1361.
77. Alexander MacKenzie, minister of Newtyle, MS 1366.
78. John MacKenzie, archdeacon of Ross, MS 1372.
79. Lieut. Col. Murdoch MacKenzie, MS 1373.
80. Captain Roderick MacKenzie, MS 1374.
81. Lachlan MacKinnon I of Corriechatachan, MS 1376.
82. Charles MacKinnon, MS 1376.
83. Lachlan MacIntosh of Daviot, MS 1377.
84. Angus MacIntosh X of Killachie, MS 1377.
85. Dr Martin Martin, MS 1389.
86. John Munro, 4th baronet of Foulis, MS 1391.
87. Robert Munro, 5th baronet of Foulis, MS 1391.
88. Captain Andrew Munro of Westerton, 2nd son of 4th baronet of Foulis, MS 1392.
89. John Munro III of Inveran and his wife, MS 1393.
90. Hugh Munro IV of Inveran and Kenneth his brother, MS 1393.
91. Alexander Munro, Principal of Edinburgh University, MS 1393.

92. Hugh Munro, minister of Durness, MS 1394.
93. Aeneas Morrison, minister of Contin and Strathgarve, MS 1401.
94. Alexander Robertson of Faskally and Duncan Robertson, writer, his brother, MS 1425.
95. Leo Robertson of Straloch, MS 1451.
96. Alexander Robertson XII of Struan, MS 1451.
97. Alexander Rose of Clova and Margaret, his wife(John MacKenzie's sister), MS 1453.
98. William Ross of Aldie and Sibilla his wife(John MacKenzie's half sister), MS 1454.
99. J. Stewart of Balgasky, MS 1466.
100. James 2nd Lord Duffus, MS 1481.
101. William Lord Strathnaver, MS 1482.

APPENDIX VIII

Moneylending Activity by Sir George MacKenzie of Rosehaugh in the 1660s from the Register of Deeds in SRO.

£64 to Andrew Ross in 1662: RD 2/12, 685-6.

1000 merks to Sir John Gibson of Pentlands, clerk of the Court of Session in 1664:
RD 3/13, 456-7.

£1000 to Thomas Maxwell "flesher burgess in Edinburgh" in 1665: RD 3/12, 41-2.

£984 to Alexander Farquar burgess of Edinburgh in 1666: RD 3/14, 559-60.

1328 merks to Rorie MacKenzie of Davochmaluag in 1666: RD 3/16, 124-5.

412 merks to Robert Munro of Foulis in 1666: RD 4/20, 842-3.

400 merks to Alexander Chisholm of Cromer in 1664: RD3/18, 598-9.

7595 merks to Kenneth MacKenzie of Coul in 1668: RD 3/20, 52-5.

£6900 to Daniel MacKenzie of Logie in 1666: RD 3/20, 351-6.

£200 to Robert Whythead of Park in 1669: RD 3/22, 584-5.

2000 merks to Sir Alexander Keith in 1668: RD 4/27, 22.

£658 to Robert Petrie merchant in Edinburgh in 1669: RD 3/24, 355.

3000 merks to Rorie MacKenzie of Davochmaluag in 1669: RD 3/24, 356-7.

1000 merks to Kenneth MacKenzie of Coul in 1668: RD 3/23, 144-46.

8000 merks to Archibald Earl of Argyll in 1669: RD 4/28, 374-5.

1000 merks to Alexander Menzies in 1669: RD 3/27, 165-6.

200 merks to Alexander Graham of Drynie in 1670: RD 3/25, 441-2.

£290 to Mr Thomas Murray advocate in 1669: RD 3/26, 458-9.

£100 to Mr William Guthrie writer in Edinburgh: RD 3/26, 459-60.

£1000 to Sir James Innes younger of that Ilk in 1668: RD 3/28, 179-80.

6000 merks to Major George Beatman in 1669: RD 3/28, 180-2.

APPENDIX IX

Testaments of Highland Chiefs 1570-1610.

Name, year of death, source.

1. Colin Campbell of Glenorchy, 1583, CC 8/8/13, f133-8.
2. Colin MacKenzie of Kintail, 1594, CC 8/8/29, f33-5.
3. Sir James Campbell of Ardkinglass, 1590, CC 8/8/22, f359-63.
4. Archibald Earl of Argyll, 1573, CC 8/8/4, f160-1.
5. Colin Earl of Argyll, 1584, CC 8/8/15, f264-7.
6. John Earl of Atholl, 1579, CC 8/8/8, f247-52.
7. John Campbell of Cawdor, 1591, CC 8/8/24, f159-60.
8. William Robertson of Struan, 1588, CC 8/8/24, f194-5.
9. Murdo MacKenzie of Fairburn, 1590, CC 8/8/24, f89-90.
10. James Menzies of that Ilk, 1585, CC 8/8/24, f308-12.
11. Alexander Earl of Sutherland, 1594, CC 8/8/32, folios not numbered.
12. Dougall McDougall of Dunnolly, 1590. CC 8/8/22, f277-8.
13. Walter Urquhart of Cromarty, 1586, CC 8/8/20, f200-4.
14. William Stewart of Grandtully, 1574, CC 8/8/7, f108-110.
15. Alexander Brodie of that Ilk, 1583, CC 8/8/12, f326-30.
16. George Earl of Caithness, 1582, CC 8/8/12, f41-7.
17. David Lord Drummond, 1571, CC 8/8/3, f121-3.
18. Patrick Grant of Dalvay, 1576, CC 8/8/10, f130.
19. Patrick Grant of Ballindalloch, 1586, CC 8/8/17, f191-2.

20. Walter MacAulay of Ardincaple, 1583, CC 8/8/14, f126-8.
21. John Earl of Mar, 1572, CC 8/8/3, f388-9.
22. John Grant of Carroun, 1588, CC 8/8/34, folios not numbered.
23. Sir William Murray of Tullibardine, 1582, CC 8/8/33, folios not numbered.
24. Hucheon Ross of Kilravock, 1597, CC 8/8/31, f248-52.
25. John Grant of Freuchy, 1585, CC 8/8/17, f77-82.
26. Alexander Bane of Tulloch, 1600, CC 8/8/35, folios not numbered.
27. Lauchlan MacIntosh of Dunnaughton, 1606, CC 8/8/43, f179-181.
28. Hucheon Munro of Assint, 1602, CC 8/8/44, f176-7.
29. Hector Munro of Foulis, 1603, CC 8/8/41, f1-5.
30. Allester MacKenzie of Redcastle, 1609, CC 8/8/45, f184-5.
31. Andrew Munro of Daan, 1607, CC 8/8/45, f77-81.

APPENDIX X

Testaments of Highland Chiefs 1650-1700.

1. John MacFarlane of Arroquhar, 1665, CC 9/7/35, 40-1.
2. Aulay MacAulay of Ardincaple, 1675, CC 9/7/44, f55-8.
3. John Grant of Carroun, 1688, CC 16/4/1, f137-8.
4. Sir Robert Innes of that Ilk, 1689, CC 16/4/1, f261.
5. Alexander Robertson of Struan, 1688, CC 7/6/1, f146-7.
6. Sir Thomas Stewart of Grandtully, 1688, CC 7/6/1, f241.
7. Colin Campbell of Mochaster, 1668, CC 6/5/15, f259-60.
8. Sir Robert Campbell of Glenorchy, 1657, CC 6/5/10, f298-300.
9. John Earl of Perth, 1662, CC 6/5/13, f276-79.
10. Neil Campbell of Duntroon, 1692, CC 2/5/1-4, f89-91.
11. Robert Menzies younger of that Ilk, 1690, CC 7/6/1, f204-6.
12. Sir Alexander Menzies of that Ilk, 1693, CC 7/6/1, f232-3.
13. James Earl of Perth, 1675, CC 6/5/18, f146-7.
14. Alexander MacIntosh of Connadge, 1680, CC 11/1/3, f171-2.
15. William MacIntosh of Torcastle, 166?, CC 11/1/3, f112.
16. Duncan MacDougall of Dunnolly, 1685, CC 2/3/2, f75.
17. William Campbell, brother of Campbell of Ardkinglass, 1685, CC 2/3/2, f130-1.
18. Colonel Andrew Munro, brother of Sir John Munro of Foulis, 1695, CC 8/8/80, f278-9.
19. Sir John Campbell of Glenorchy, 1686, CC 2/3/2, f176-7.
20. Duncan Campbell of Duntroon, 1652, CC 8/8/69, f153.
21. George Earl of Seaforth, 1684, CC 8/8/77, f185-6.

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Cromarty Muniments, GD 305
Dunstaffnage Papers, GD 202
Haldane of Gleneagles Muniments, GD 198
MacDonald of Sanda Muniments, GD 92
MacLean of Lochbuie Papers, GD 174
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